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South Dakota Courts
The State of the Judiciary
and
1991 Annual Report of the
South Dakota Unified Judicial System

Chief Justice
Robert A. Miller

January 1992

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**State of
the
South Dakota
Judiciary**

*Chief Justice
Robert A. Miller*

**January
1992**

STATE OF THE JUDICIARY

Governor Mickelson, Legislators, Constitutional Officers, fellow Justices and Citizens:

It is an honor for me to present to you this written State of the Judiciary message together with the accompanying annual statistical report of the South Dakota Unified Judicial System. After consultation with legislative leaders, it was determined that this would be a most effective means of giving my message, with the understanding that I have an open invitation from the Legislature to give an oral message at any time when I deem it particularly important or vital.

Although I will present more detail later herein, I am pleased to report that this state's judicial branch is in excellent shape and is functioning in a most efficient and productive manner. I am proud of our judiciary, and can assure you we have one of the most modern and effective judicial systems in the United States.

JUDICIAL PERSONNEL CHANGES

Last March, JUSTICE ROBERT A. AMUNDSON joined our Court, succeeding Retired Justice Robert E. Morgan. Justice Amundson, who chambers at the USD Law School in Vermillion, previously served four years as a circuit judge in Sioux Falls. Justice Amundson has a wealth of legal experience. He began his legal career as an assistant attorney general, followed by four years as this state's Commissioner of Securities and approximately 13 years in the private practice of law in Belle Fourche and Lead. He is a hard-working jurist who is dedicated to the rule of law. We are honored and pleased to have him on the Supreme Court.

On the circuit court level, JUDGE WILLIAM J. SRSTKA, JR. was appointed to fill the vacancy created when Justice Amundson joined the Supreme Court. Judge Srstka practiced law for many years in Pierre and most of you are acquainted with him through either his legal or lobbying practices. He is a fine addition to our judiciary.

CIRCUIT JUDGE MARSHALL YOUNG of Rapid City has announced his retirement to take effect later this year. He will become a part-time U.S. Magistrate in Rapid City. Judge Young has had a most distinguished judicial career. He has attained national recognition as a judicial educator and leading authority on juvenile and family court matters. We will miss Judge Young, but surely wish him well in all future endeavors.

At the end of this calendar year we will lose two fine circuit judges through mandatory retirement. JUDGE E.W.HERTZ of Olivet and JUDGE ROBERT C. HEEGE of Sioux Falls will both turn 70 this year.

Judge Hertz joined the circuit bench in 1970 and has been presiding judge of the First Circuit since court reorganization in 1975. He is one of the most highly respected judge in this state, and deservedly so. Because of his unique judicial talents he has thrice been called upon to sit as an Acting Justice of the Supreme Court when protracted vacancies existed.

Judge Heege also has a distinguished legal career. He practiced law for 32 years in Sioux Falls before becoming a circuit judge in 1979. He also served as presiding judge of the Second

Circuit during 1981-1987. He has sat with the Supreme Court on many cases when justices were disqualified.

We wish Judge Hertz and Judge Heege the very best in their well-deserved retirement.

RELATIONS WITH LEGISLATURE

The Five-State Judicial Conference in Helena this past summer devoted a large portion of the program to relations between the legislature and judiciary. Several legislators from the five states (Montana, Wyoming, North Dakota, South Dakota and Idaho) participated. Representative Nicolay represented the South Dakota Legislature and was most helpful in making it a meaningful conference. As she and I discussed, we in South Dakota are far ahead of many other states in opening and maintaining lines of communication and cooperation between our branches.

Even though we currently have a good mutual relationship, we became convinced that more could be done to improve the communication and understanding between our respective branches. Representative Nicolay and I agreed that more orientation of our members would be appropriate. I believe Representative Nicolay will be making various recommendations to the LRC Executive Board. Similarly, believing legislators need and deserve a better understanding of the judiciary, I invited all members of the House and Senate Judiciary Committees, as well as the Chair and Vice Chair of the House and Senate Appropriations Committees, to attend the 1991 Judicial Conference. Unfortunately, due to scheduling conflicts only Senator Emery and Representatives Schreiber and Hagg

were able to attend. From my conversations with them, I believe they thought the conference was interesting, beneficial and worthwhile. I intend to extend the invitation each year, and hope the conference date will better coincide with the availability of the legislators.

RELATIONS WITH EXECUTIVE BRANCH

We have all benefitted from the continued cooperative working relationship with the Governor and his departmental leadership and program administrators. For example, I have been an active participant of the Governor's Telecommunications Task Force. The task force has identified the communications resources in our state and is now coordinating those resources to provide a statewide interactive telecommunications network. Such a network holds many exciting possibilities for future application in the judiciary.

We have worked particularly closely with the Departments of Corrections, Social Services, Human Services and Education and Cultural Affairs in carrying out our joint responsibilities to South Dakota's youthful offenders. Moreover, the creation of the Youth and Family Alliance by Governor Mickelson will serve to strengthen and re-enforce state and local planning and collaboration through its inter-departmental membership and local interagency network councils. To be sure, our state's young citizens and their families are benefitting from this spirit of cooperation among government and private youth agencies.

RELATIONS WITH TRIBAL COURTS

I am pleased to advise that we have an excellent, rejuvenated relationship with the tribal courts of the state.

In May 1991 I hosted a joint judicial conference of state and tribal judges. Most of the tribal judges, trial and appellate, joined the entire state judiciary in a meaningful educational endeavor. The program was organized and developed with the fine assistance of USD Law Professor Frank Pommersheim, himself a tribal appellate judge. Several other tribal judges were on the program.

Through various plenary sessions and small group discussions, all judges were afforded the opportunity to learn more about each others' legal systems. We noted a number of mutual concerns and attempted to identify methods of solving them. Based on discussions I had with the judges after the conference, I am convinced most considered it a worthwhile and beneficial conference, not only in the area of state/tribal relations, but, more importantly, in appreciating that we are all in the "justice" business and need to perform our jobs in the most appropriate manner.

Some very exciting ideas and action flowed from the conference. Time and space does not permit me to set them forth in great detail in this message. However, I do feel it important for you to know that there is now a joint committee, comprised of three state circuit judges and three tribal judges, which is actively identifying and considering a number of proposals for the future. Additionally, I adopted a policy of inviting tribal judges to annual training sessions of state judges and inviting tribal

probation officers to annual training sessions of our court services officers. Further, at the local level several agreements have been implemented for joint sharing of courtrooms, as well as proposals that tribal juveniles adjudicated in state court be supervised at home by tribal probation officers.

We look forward to expanding upon this wonderful relationship. The best interests of justice and our people deserve that.

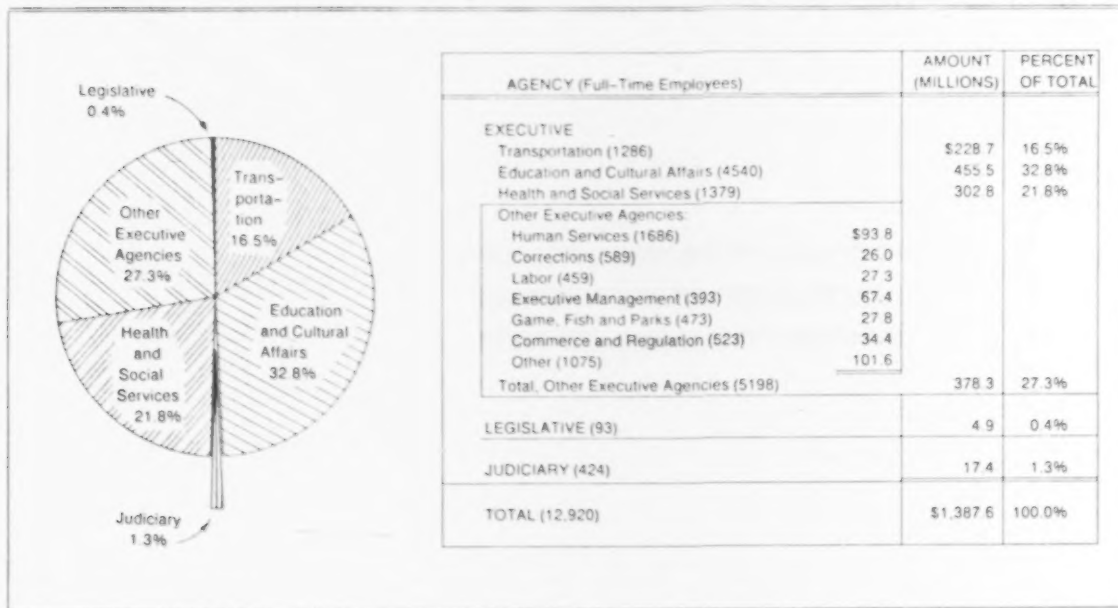
IMPACT OF CRIMINAL JUSTICE SYSTEM ON UJS

The growth of South Dakota's prison population, as well as the growth of our three juvenile correctional institutions, and the associated costs is an issue both the Legislature and Governor Mickelson have addressed on a number of occasions. The UJS has, in its own quiet way, also responded to this challenge. Balancing our dual roles of ensuring public safety and providing intermediate sanctions for convicted felons and adjudicated youthful offenders, our judges and court services officers have increased their caseloads as an alternative to unnecessary and expensive institutionalization. During the past five years, our felony probation caseload has increased by 48% from 1,287 on probation at the end of FY87 to 1,911 at the end of FY91. During this same time, our juvenile probation caseload increased 40% from 880 to 1,231 on probation. Yet, during this period we have received only one additional court services officer FTE. Further, through our two intensive probation supervision programs we have been able to divert 157 prison-bound felons from our prison system since July 1988. Providing responsible community-based alternatives at a

significant reduction in costs has resulted in great savings for the taxpayer and has contributed much towards curtailing further growth in South Dakota's adult and juvenile correctional institutions.

BUDGET

As all of you may know and hopefully may appreciate, the budget of the UJS is a very small part of the overall state budget as illustrated by the following pie chart.

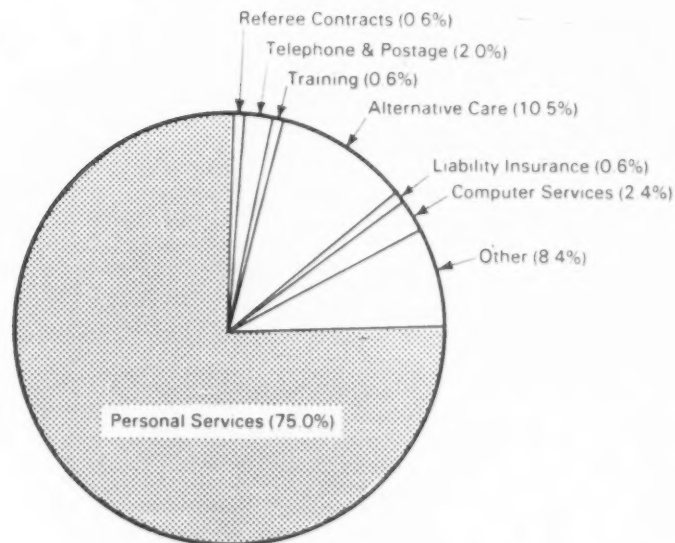


Most of the funds in the UJS budget are for programs over which we have little discretion or flexibility. The following pie chart shows that the greatest share of our \$17 million budget is allocated for personal services (75%) and alternative care (10.5%), which are funds solely dedicated for out-of-home placement of problem youth. As you can see, the funds remaining for other

necessary support services are very small. I urge the Legislature to look favorably upon our budget request, which was submitted in detail to the Appropriations Committee.

Unified Judicial System

Budget Allocation



BUSINESS OF THE SUPREME COURT

The Supreme Court continues to be very busy. In 1991 we disposed of 421 cases. Additionally, we entered 235 non-dispositional case orders, which although not "full blown" formal appeals, require extensive reading by each justice, as well as formal discussion and action at our bi-weekly conferences. Additionally, we considered and adopted a large number of rules dealing with a variety of subjects from civil procedure to establishing trust accounting reporting requirements for attorneys.

Since the majority of the public is aware only of our written opinions and monthly court terms, it is perhaps difficult for them to fully appreciate the constant work needed to fulfill our primary obligation of giving each case before us serious, important, academic consideration. Consider that every month each justice reads about 2000 pages of legal briefs plus all of our own individual writings (generally several drafts before they are in final form) and those of the other justices, innumerable pages of case authorities, routine papers for our bi-weekly conferences, and large quantities of materials required for routine administrative matters.

I am proud of the members of this Court and their dedication to the serious business undertaken by us. The quality of our opinions equals or surpasses that of any appellate court in the country, even those whose caseloads are significantly lower than ours.

CIVIL AND CRIMINAL CASELOAD STATISTICS

We have highly talented, dedicated and hard-working circuit judges and law trained magistrates in this state. I am proud of them! The statistical data demonstrates how hard they are working.

I am proud to advise, too, that the circuit judges are promptly disposing of the cases they hear. Our rules require them to report to me, on a quarterly basis, any cases that are or were under advisement for over 90 days. Generally there are but a handful of cases reported, and often there are none. Considering the number of cases heard, that is most admirable.

JUDICIAL SALARIES

I would be remiss if I did not commend to you the need for improved salaries for our South Dakota judges. South Dakota judges currently rank 49th when compared to their counterparts in other states. In line with Governor Mickelson's goal of raising personal income and state employee salaries of South Dakotans to 35th in the nation, the Commission on Salaries of Elective State Officials has recommended that over the next four fiscal years, the salaries of elected officials be raised by 5% in addition to the annual salary adjustment received by all state employees. I applaud the Governor and the Commission for recognizing that dedication alone cannot be counted on to attract the best and brightest. Our mission of providing the people of South Dakota a judiciary of the highest quality demands that we do everything in our power to attract and retain the best talent. I urge the Legislature to look favorably upon the recommendations of the Commission and the Governor.

JUDICIAL ELECTION COMMITTEE

Last summer I appointed a committee to review, study and make recommendations to the Judicial Conference of possible changes in the manner in which circuit judges are elected. It was a broad-based committee comprised of four circuit judges (Davis, Hurd, Gilbertson and Steele), three lawyers (Charles Kornmann of Aberdeen, Darla Rogers of Onida and David Gerdes of Pierre), two legislators (Senator Stoick and Representative Beddow) and two lay people (Philip Mayor Nancy Ekstrum and Larry Fuller, publisher of the Argus Leader.)

Following a series of public hearings, the committee made several recommendations. The recommendation subject to the most attention and controversy is that our constitution be amended to provide for a retention election for circuit judges to be conducted in the same manner as that for supreme court justices. Under the current election process, all circuit judges stand for re-election on a popular non-political ballot every eight years. There is no process to assure the electorate that candidates in a judicial election are qualified to hold that office.

After spirited debate and consideration of all the issues, the Judicial Conference accepted this recommendation by a close vote. Appreciating the interest and concerns the State Bar would have with such a proposal, the Judicial Conference voted to defer final action in order to obtain the recommendation of the Bar at its annual meeting in June 1992. Thus, the issue will not be presented to the Legislature this year.

The Committee also recommended that the Judicial Qualifications Commission publicize the names of candidates determined, as a preliminary matter, to be qualified and likely to have their names submitted to the Governor. The Committee felt this would give the public an opportunity to comment. This, too, was a controversial proposal. Several judges felt publicizing the names would have a chilling effect on applicants who did not want it publicly known that they were interested in leaving their private law practices or other employment to join the judiciary. By a very slim margin, the Judicial Conference accepted this recommendation

and communicated that request to the Judicial Qualifications Commission.

Third, the Committee recommended that shortly before the retention election the Judicial Qualifications Commission should conduct a poll of lawyers, and perhaps others as determined by the Commission, as to the qualifications and abilities of judges and should make the results public. The Conference strongly opposed this recommendation, expressing concern over the absence of appropriate logistics and guidelines under which such a poll would be conducted.

Finally, the Committee recommended that the present law be changed so only residents of a circuit would be eligible for appointment to a circuit judgeship vacancy in that circuit. They felt residency should exist at the time application is made to the Judicial Qualifications Commission. By a six vote margin, the Conference rejected that recommendation.

It is obvious this Committee undertook the study of a very controversial subject. The election of judges is very important, more to the public than to the judges themselves. I hope all citizens are interested in having only qualified lawyers become judges -- they should insist on it. Judges deal with all the most important affairs of life -- yes, even life itself -- and only qualified people should hold those positions.

Time will tell whether we will be recommending a change to you. In the meantime, we should all give it serious consideration. At the very least, we owe a great debt of gratitude to the Judicial

Election Committee for their interest, effort and fine work. They have performed an important duty for the citizens of this state.

A LOOK TO THE FUTURE

Most of my message to this point has dealt with the present and the past. While important, it is incumbent upon us to also consider the future and not just the immediate future, but years into the next century.

We have a modern judiciary. You undoubtedly recall that court reorganization occurred as the result of a constitutional amendment passed in the 1972 general election. Most of the laws implementing the UJS were passed in the 1973 Session of the Legislature. Reorganization was not actually implemented until January 1975.

Nearly 20 years have passed since our courts were reorganized into this wonderful, effective unified system. It has served the judiciary and state well, and will continue to do so in the future. However, changes periodically need to be considered. In the years since 1975 the state has experienced significant demographic changes. There have been many rapid advancements in the field of technology. All of these have and will continue to impact the judiciary. We must be prepared to respond.

I know many other state judiciaries have created commissions or task forces to begin long-range planning efforts for their court systems. Their goals are to look to the needs of the court system beyond the year 2000 and to predict the role of the courts in the future, as well as to seek solutions to present and future

problems. I suggest that South Dakota should now consider such a movement.

The South Dakota Judiciary, in my opinion, needs to be involved in some long-range planning efforts. Hopefully, in the next year or so we can consider the creation of a futures task force to examine not only the quality of justice, access to courts, public education and cost of litigation, but also to review the structure of our court system and explore future needs of the judiciary. We will also need to consider the likely impact of social trends, as well as demographic changes, on the future of the criminal, domestic and civil caseloads of the future.

I envision a broad-based task force, comprised of judges, lawyers, legislators, educators, judicial administrators and citizens. We have an abundance of talent within our state which gives us the ability to tap innumerable resources to assist in such an important project.

This is something I will be discussing with my colleagues on the Supreme Court. Hopefully, I will be able to give you something more definitive in my next message.

CLOSING/SUMMARY

The foregoing are just the highlights of our continuing efforts to improve the judiciary. We have been involved in many other important issues I could relate, but that would make this message too lengthy. Presumably you may have questions or want more detailed information concerning the judiciary and its activities. I extend to you an invitation to contact me at any

time. I welcome the opportunity to tell people about our judiciary!

Please accept my sincere best wishes.

1991

***Annual Report
of the***

**South Dakota
Unified Judicial System**

January 1992

Members of the South Dakota Supreme Court



Hon. Richard
W. Sabers
Justice,
Second
District
Sioux Falls

Hon. George
W. Wuest
Justice,
Fifth
District
Aberdeen

Hon. Robert
A. Miller
Chief Justice,
Third
District
Pierre

Hon. Frank
E. Henderson
Justice,
First
District
Hill City

Hon. Robert
A. Amundson
Justice,
Fourth
District
Vermillion

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**UNIFIED JUDICIAL SYSTEM
COURT STRUCTURE**

Functional Summary of the South Dakota Judiciary

Supreme Court

Five members appointed by the Governor from judicial districts and subject to statewide electoral approval three years after appointment and every eight years thereafter. Retirement at age seventy.

Court term coincides with calendar year.

Has appellate jurisdiction over circuit court decisions.

Has original jurisdiction in cases involving interests of state. Issues original and remedial writs.

Has rule-making power over lower court practice and procedure, and administrative control over the Unified Judicial System.

Renders advisory opinions to the Governor, at his request, on issues involving executive power.

Circuit Court

Eight circuits served by thirty-six judges, who are elected at-large from within their respective circuits for an eight-year term. Vacancies filled by Governor's appointment.

Trial courts of original jurisdiction in all civil and criminal actions. Exclusive jurisdiction in felony trials and arraignments, and all types of civil action except those areas of concurrent jurisdiction shared with magistrate courts, listed below. Appellate jurisdiction over magistrate court decisions.

Magistrate Courts

Lay Magistrate:

Appointed by the presiding judge for an indefinite term. This function is usually performed by the clerk of court.

Concurrent jurisdiction with circuit courts to:

Perform marriages, receive depositions, issue warrants, conduct certain preliminary hearings, set bail, appoint counsel, accept pleas for class-two misdemeanors, conduct hearings for petty offenses and render judgments for uncontested civil cases involving damages of \$2000.00 or less.

Law-Trained Magistrate:

Licensed attorney, appointed by presiding judge for a four-year term. Part-time appointees serve at the pleasure of the presiding judge.

Additional jurisdiction in magistrate court to:

Conduct preliminary hearings for all criminal prosecutions, act as committing magistrate for all purposes, conduct trials of criminal misdemeanor, civil actions involving damages of \$2000.00 or less, and small claims actions.

Supreme Court

The judicial system of South Dakota, as shown in the chart on the previous page, is comprised of two component levels of courts having interrelated jurisdictions. The circuit courts are the lower courts of original jurisdiction through which the bulk of the criminal prosecution and civil litigation is processed. The Supreme Court, in addition to its own areas of original jurisdiction, provides the administrative leadership for the legal and judicial system, and serves as the state's appellate court. This means that problems the litigants have with decisions made at the circuit court level are brought, as appeals, to the Supreme Court for resolution.

The circuit courts employ magistrate courts to assist in processing misdemeanor cases (mostly traffic and DUI) and less-serious civil actions such as small claims.

The courts, and the administrative apparatus of the judicial system, are described in further detail in the material following.

The Supreme Court is the state's highest court and the court of last resort for state appellate actions. It is the final judicial authority on all matters involving the legal and judicial system of South Dakota. In considering state issues, however, and in making decisions about cases received from parties appealing circuit court actions, there are a few restrictions on the authority of the Court. The justices, for example, are generally expected to follow precedent--that is, their own previous decisions (with some allowance for progressive change). Also, there are the constraints placed upon the Court by the State and Federal Constitutions, by statute law passed by the legislators, and by decisions of the Federal Courts.

When a case, or an issue, meets the general criteria for consideration, the Court's judgment--to affirm or reverse a lower court decision, for example--is based on a majority vote of the five justices.

The responsibility of writing the majority opinion for each appropriate case (not all cases require a written opinion) is assigned to the justices by lot. Also, all of the justices have an unrestricted right to prepare a dissenting or concurring opinion to accompany the majority opinion. These written opinions are published in the Northwest Reporter, which is printed and distributed by the West Publishing Company.

The working term of the Supreme Court extends the full calendar year. The sessions are usually held in the hearing room in the State Capitol, or in those cities, or college campuses, that the Court may specify by its own order.

Membership and Appointment

The five members of the Court (four justices and a chief justice) are responsible for making collegial decisions regarding appellate cases and other judicial business. It is not unusual, however, for one of the judges from the circuit court to be assigned to sit on the Supreme Court bench temporarily to assist in the decision-making process.

Such appointment may occur when a justice disqualifies himself because he might have, or appear to have, personal involvement in a case, or if there is a vacancy on the Court caused by the illness or departure of a justice.

All of those who sit on the Supreme Court must be licensed to practice law in the state, and permanent justices must be voting residents of the district (see Map 1) to which they are appointed at the time they take office. There is no formal age requirement for those who serve on the Court, but there is a statutory requirement that a justice must retire shortly after reaching the age of seventy. A retired justice, if he makes himself available, may be called back into temporary judicial service in any of the state's courts.

Under the terms of a Constitutional Amendment passed by the voters in November, 1980, vacancies on the Supreme Court are filled by Governor's appointment. This appointment must be made from a list of two or more candidates recommended by the Judicial Qualifications Commission. All Supreme Court justices must stand, unopposed, for statewide approval or rejection by the electorate in a retention election. For newly-appointed justices, the vote is held at the next general election following the third year after appointment; for incumbent justices who were elected under the earlier system, the vote was held at the end of their first eight-year term. After that, all justices stand for retention election every eighth year.

Justice Henderson, elected from district one, began serving his term in 1979 and was retained in the November, 1986 election. His next retention election will be held in 1994. Justice Sabers, from district two, and Chief Justice Miller, from district three, were appointed in 1986 and participated in their first retention election in 1990. Their next election will be held in 1998. Justice Amundson, from district four, was appointed in 1991 and will participate in his first retention election in 1994. Justice Wuest, from district five, was appointed in 1986 and stood for retention election in 1990.



Map 1. Supreme Court Appointment Districts

Jurisdiction

The original jurisdiction--as contrasted with appellate jurisdiction--of the Court extends generally to all issues involving the interests of the state. The jurisdiction includes power to issue original and remedial writs when the interests of the state are directly involved, or when ordinary jurisdictions and remedies are inadequate to provide relief. The Court may also render advisory opinions to the Governor, at his request, on issues involving the exercise of his executive power.

The appellate jurisdiction of the Court, by which the justices hear appeals from the decisions of the lower courts, constitutes the largest portion of their workload. This appellate control insures adherence by the circuit judges to accepted principals of justice throughout the judicial system. It is one significant way in which the Supreme Court serves the public.

In addition to their original and appellate jurisdictional duties, the justices also provide administrative control over the judicial and legal system of the state.

For example, the Court is responsible for supervision of the licensing of attorneys as members of the State Bar, and for deciding questions involving the removal of attorneys from professional practice in the state. The Court is assisted in this activity by the Disciplinary Board of the State Bar, which prosecutes all disciplinary proceedings before the Court. This board is comprised of seven members, six of whom are appointed by the president of the state bar

association, and one of whom is appointed by the Chief Justice.

Also, the discharge of these disciplinary duties requires that the Court establish a code of conduct regarding appropriate behavior of the members of the legal community, and hold disciplinary hearings to consider violations of these guidelines. Through this process, the Court is able to maintain control over the professional conduct of the attorneys of the state.

Administrative authority over the judges and justices of the court system is also exercised by the Supreme Court, assisted by the Judicial Qualifications Commission, which is discussed on the following pages.

The administrative rule-making power of the Supreme Court also applies to lower court practice and procedure, encompassing such judicial items as the regulation of civil litigation and criminal prosecution, and the Rules of Appellate Procedure. Supreme Court Rules, other than those designated as "internal procedures" (which include policy regulation, for example, of judicial system personnel), become part of state law, just as the statutes passed by the legislature.

Administrative responsibility of the Court also includes general management and supervision of the Unified Judicial System, which occasionally involves the modification of the number of circuit court judges and boundaries of circuits.

The Supreme Court by rule this year repealed and re-enacted the statutory time limit on criminal prosecutions. They also provided several changes in the law to facilitate facsimile transmission of certain court documents. Other rules issued by the Court modified the fee schedule for appellate filings; added provisions addressing the method of assessment and payment of appellate costs and amended the procedures for filing appeals of right. The Court also modified settlement conference rules and certain rules for handling disciplinary matters and amended rules covering application and testing for membership in the state Bar Association.

Beyond these rule-making functions, the Court appoints personnel to specific permanent positions in the judicial system, authorizes commissions within the judicial branch, and approves membership on those commissions. The Court also establishes rules for effective administrative policy in the system, such as regulations governing official travel, and for training of the personnel in the Unified Judicial System.

In addition, the Court appoints such personnel as may be appropriate to serve the needs of the state judiciary. The Court's administrative responsibility is exercised normally through the power of the Chief Justice, as specified in SDCL 16-2-20, which provides extensive authority for him to take any action necessary to ensure the efficiency of the judiciary process. The Court is assisted in this role by the State Court Administrator, the staff in his office, and the presiding judges.

Settlement Conference

The appellate settlement conference is an innovation recently introduced into the South Dakota appeals process to provide for disposition of part of the Court's workload by a Court-appointed conferee. This conferee, meeting with the parties to the appeal, attempts to

facilitate a settlement between them, or to clarify the main issues of the appeal.

This process provides an alternative method of disposing of an appeal. The parties involved--usually through their attorneys--meet in their own locality and attempt to reach an agreeable settlement without requiring a decision by the Supreme Court. Docketing statements that are filed with the appeal indicate the willingness of the parties to participate in a conference. These are screened by the Court's staff attorneys, who select those that seem most amenable to settlement by the conference process.

This process helps conserve the resources of both the litigants and the Court. The litigants save part of the normal expenditure for legal briefs, transcripts and attorney's travel costs, as well as the expense saved by the reduction of the attorney's time spent in preparation for, and presentation of, an oral argument before the Supreme Court. The Court saves time usually spent in researching the case and preparing an opinion.

Settlement conferences may be properly requested only by parties appealing from lower court decisions that involve money judgments, domestic relations cases, workmen's compensation, or administrative agency decisions. A conferee, however, may invite participation, if it seems appropriate, by the parties to any civil (non-criminal) appeal.

Each conferee--usually a retired judge or justice, or an attorney who has special background--is appointed by the Court to deal with a specific case. The conferee is expected to be aware of relevant Supreme Court decisions, and to have the skill to analyze the issues involved and present suggestions for effective settlement.

Data for the settlement conferences held during fiscal year 1991 are shown on Table 1.

SUPREME COURT DATA

Supreme Court Data

The information on Table 1 is presented graphically on Chart 1. Categories shown are those that are most commonly used in Supreme Court cases.

In the table, "Intermediate Appeals" are appeals from circuit court decisions that are not final and not appealable of right. These are accepted at the discretion of the Supreme Court.

Issuance of a Certificate of Probable Cause is required before an appeal can be brought in a habeas corpus case.

A "Notice of Review" is filed by an appellee (the prevailing party in the lower court, against whom the appeal is brought) when he seeks review of any judgment or order entered in the same action from which an appeal has been taken. A notice of review is a separate filing, but not a separate disposition. It is disposed as part of the original appeal.

Under the DISPOSITIONS heading, the category of "Summary Dispositions" reflects expedited appeals that have been summarily affirmed or reversed on established grounds set forth in SDCL 15-26A-87.1.

In these proceedings, the Court, on its own motion, may either affirm or reverse the judgment or order from which the appeal is taken. The term "expedited appeal" is sometimes used because it usually takes less time to process appeals under this rule. The Court must be unanimous in its decision to render the summary disposition, and that decision is set out in an order or memorandum opinion.

Every case that has been filed in which no decision has yet been entered is a pending case. There are three main sub-categories of pending cases, as shown on Table 1. Cases

that have been completely briefed, orally argued or submitted to the Court on briefs, and which await only final disposition by the Court, are placed in the "Submitted and Pending" category. Cases that have been completely briefed and are awaiting placement on the Court's calendar are placed in the "Ready for Submission" category. Cases that have been filed, but are still in the transcript or briefing stages are placed in the "Not Ready for Calendar" category.

The lower part of the table shows settlement conference data for the five fiscal years they have been available. Request filings for 1991 show a decrease of about 14% from the previous year. A total of 59 requests were filed, mostly by the appellant. Of these, 84% were ineligible or refused. The number of requests refused have more than doubled from the previous year. In 1991, eleven conferences were held, and six of these resulted in a settlement without requiring a decision from the Supreme Court.

In the bar chart, cases "Submitted and Pending" are shown as "Pending." The category of "Ready for Submission" is shown as "Ready."

The 1991 data in the chart illustrate that, while there is no trend discernible over the time-period shown, total appellate filings for this year have decreased to a five-year low. Disposition figures for the period also show no trend, but, following a decline in 1990, there is a noticeable increase this year.

Cases submitted and pending--that is, awaiting a decision by the Court--have declined to a five-year low this year, as have cases ready for submission to the Court. This reduction in pending cases reflects an overall decrease in backlog for the Court.

SUPREME COURT CASELOAD COMPARED BY FISCAL YEAR

FISCAL YEAR ---->	FY 1987	FY 1988	FY 1989	FY 1990	FY 1991
FILINGS	449	463	426	452	397
Appeals	362	370	325	346	316
Intermediate Appeals	20	27	37	43	28
Original Proceedings	26	21	29	16	21
Notice of Review	34	37	33	41	29
Certificates of Probable Cause	7	8	2	6	3
DISPOSITIONS	381	463	484	434	447
Appeals / Original Proceedings	186/207	198/243	199/247	158/192	184/222
Orders of Dismissal	104/105	103/104	106/106	106/110	90/92
Denial of Intermediate Appeals	14	14	27	28	19
Original Proceedings (by Order)	26	24	27	16	15
Summary Dispositions	29	78	77	88	99
PENDING CASES (as of 6-30)	336	341	287	310	262
Submitted and Pending	109	91	82	89	70
Ready for Submission	63	74	58	52	34
Not Ready for Calendar	163	174	146	167	152
Other (in Suspende)	1	2	1	2	6
SETTLEMENT CONFERENCES					
FILED	93	70	61	72	59
Filed by Appellant	85	64	53	63	55
Filed by Appellee	6	5	7	7	3
Invited by Conferee	2	1	1	2	1
Ineligible	40	27	17	28	25
Refused	12	6	7	9	21
Conference Unsuccessful	20	27	22	27	5
Case Settled	12	13	11	15	6
Pending (End of FY)	9	6	10	3	5

Table 1. Supreme Court Caseload Compared by Fiscal Year

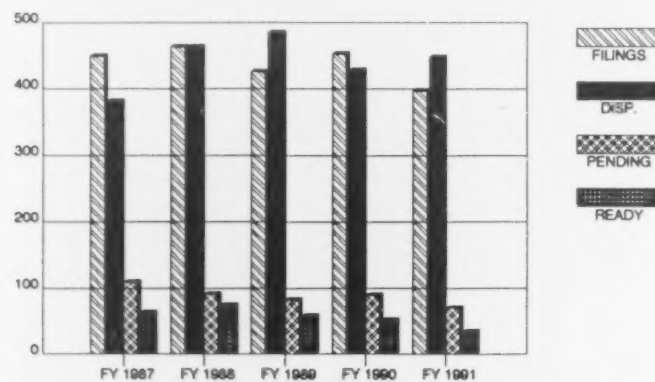


Chart 1. Supreme Court Caseload Comparison

CIRCUIT COURT

Circuit Court

The circuit courts are the trial courts of general jurisdiction. This means the circuit court judges have original jurisdiction in all cases and proceedings except those reserved for the Supreme Court. Appeals from decisions of the magistrate court, a subdivision of the circuit court, are also heard by the judges of the circuit court.

Circuit court judges are elected at large from within their respective circuits for a term of eight years. In the event of a vacancy in one of these positions, the Governor appoints a replacement from a list of at least two candidates recommended by the Judicial Qualifications Commission. The circuit judge must be a voting resident of his circuit at the time he takes office. The thirty six judges, and the law-trained magistrates, in office at the end of calendar year 1991 are listed on page 12. Map 2 below shows the boundaries of the eight judicial circuits.

Direct supervisory control over the circuit court procedures and personnel is exercised by the presiding judge of each circuit, who is appointed to this administrative position by, and serves at the pleasure of, the Chief Justice of the Supreme Court. The authority of the presiding judge includes the following.

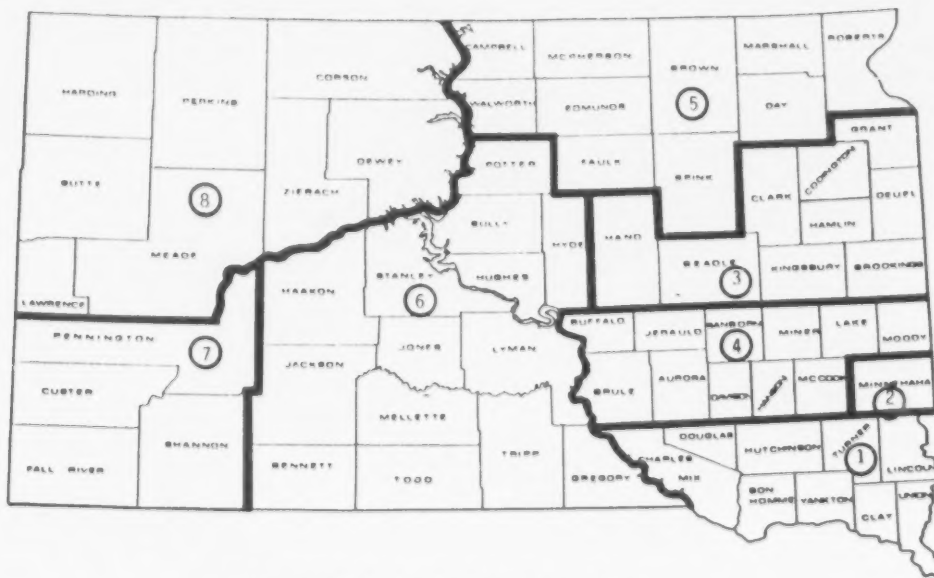
- 1) Assigning circuit judges and arranging schedules for sessions of circuit court, and supervising the calendar for circuit court trials and hearings.
- 2) Appointing clerks, deputy clerks, bailiffs, and other personnel within the circuit, and establishing their rate of compensation as authorized by Supreme Court rule.

- 3) Arranging for the proper drawing of jury panels and for the reporting of cases.
- 4) Periodically reviewing and evaluating personnel performance in the judicial circuit.
- 5) Monitoring the schedule of circuit judges to ensure their availability in each county according to statute.
- 6) Authorizing a schedule of fine and bond amounts to be used by magistrates and law enforcement officers in criminal prosecutions.

Circuit court jurisdiction over minor court actions is shared with the courts of limited jurisdiction, discussed on the following page. Arraignment and trial of all felony cases are part of the exclusive jurisdiction of the circuit courts. The exclusive civil jurisdiction of these courts includes cases involving the following.

- 1) Dispute of title or boundary of real property
- 2) Divorce or annulment of marriage
- 3) Probate, guardianship and settlement of estates
- 4) Juvenile proceeding
- 5) Civil disputes in which damages claimed are in excess of \$2,000.00.

As noted above, the circuit court has appellate jurisdiction over judgments, decrees and orders of magistrate courts. Decisions in small claims cases cannot be appealed.



Map 2. Judicial Circuits and Counties

Magistrate Courts

In addition to the circuit courts, the South Dakota legislature has authority to provide for courts of limited jurisdiction. In the present system, these courts--the magistrate division--assist the circuit courts in disposing of misdemeanor criminal cases and minor civil actions. In so doing, the magistrate courts make the judicial system accessible to more of the public, providing a means of direct court contact for the average citizen. The jurisdiction of the magistrate court varies depending on whether there is a lay magistrate or a law-trained magistrate presiding.

The law-trained magistrate is required to be licensed to practice law in the state. Because of this legal knowledge, these magistrates are better able to provide effective decisions regarding more complex legal issues. Each full-time law-trained magistrate is appointed by the presiding judge of the circuit to a four-year term upon approval by the Supreme Court.

As is apparent from the list presented on page 12, a substantial number of the law-trained magistrates are part-time personnel who may continue in their own private legal practice. Full-time law-trained magistrates are not permitted to have a private practice.

In addition to the functions of the court with a lay magistrate presiding, the law-trained magistrate may conduct preliminary hearings for all criminal charges, and act as a committing magistrate for all purposes. Also, with a law-trained magistrate presiding, the magistrate court may conduct trials for charges of criminal misdemeanor, civil actions involving amounts of \$2,000 or less, and disputed small claims cases.

The lay magistrates, in contrast to the law-trained personnel, are more restricted in their jurisdiction. They may accept not-guilty, nolo contendere, and guilty pleas (and impose sentence) only in criminal cases for which the maximum penalty is \$100.00 fine and thirty days in jail. Cases in which a not-guilty plea is entered are then scheduled for trial before a law-trained magistrate or circuit judge.

In all criminal cases, the lay magistrate is authorized to issue warrants for arrest or search, appoint legal counsel for defendants who are unable to pay for a lawyer, set bond for the release of the accused, and preside over preliminary hearings (unless a request is made by the accused to have the hearing before a law-trained magistrate or a circuit judge). In addition, the magistrate is authorized by statute to function as coroner when the regular coroner of the jurisdiction is not available.

The lay magistrate also has the power to perform marriages, to take depositions and administer oaths; and to enter judgments in defaulted small claims cases and other uncontested civil disputes involving amounts of \$2,000 or

less. Table 3 shows the number of personnel, by circuit, involved in the clerk and lay-magistrate activities. In most counties, the clerk of court also serves as the lay magistrate.

Although there is no educational requirement for a lay magistrate other than high school graduation, the lay magistrate is required by law to attend a training institute provided every other year by the State Court Administrator's office.

The state law assigns extensive authority to the lay magistrate, particularly in criminal cases, but the extent of the actual exercise of this authority varies considerably from one circuit to the next, depending on a number of factors. These factors include the policy of the presiding judge, the availability of law-trained magistrates and circuit judges, and the land area of the circuit.

Presiding Judge's Meeting

Approximately every two months throughout the year, the eight presiding judges meet with the Chief Justice and the State Court Administrator. At two of these meetings each year, participation by the eight chief court services officers is also included.

Through the presiding judges meetings, judicial circuit personnel are provided direct communications into administrative policy and procedural decisions of the Unified Judicial System. The agenda encompasses a wide variety of subjects involving policy, management problems, and current issues relating to the operation of the courts.

Through these meetings, the presiding judges coordinate administrative activities among the circuits and keep themselves abreast of the latest developments in the court system. This promotes uniformity and administrative efficiency for the judges and staff in the judicial circuits. These conferences also provide an opportunity for members of the executive branch and the legislature, and other interest groups, to meet and discuss issues of mutual concern with the judicial personnel responsible for the implementation of operations at the circuit court level.

During the year, agenda items for the presiding judges' meetings included discussions of personnel procedures and benefits, law-trained magistrate caseload, salary policy, juvenile court needs, new legislation for jury management, referees in child support actions, criminal records retention, probate filing fees, stay of execution in small claims actions, the use of videotapes for orientation, staffing of clerks' offices and special computer applications.

Judicial Conference

Another primary channel of management communication in the Unified Judicial System is the annual meeting of all circuit judges and Supreme Court justices, required by state law and usually held in the Fall of the year. The purpose of this meeting, designated the Judicial Conference, is to give judges the opportunity to study the organization, rules, practices, and procedures of the judicial system, and make recommendations to the Supreme Court for appropriate legislative and Supreme Court rules changes.

The agenda for the 1991 Judicial Conference included discussions of community corrections facilities and procedures and the functions of the South Dakota Retirement System; reports from the State Bar Association and the Commission on Salaries of Elected Officials; a status report on the youth advocacy project and regional detention authority; consideration of an alternative care funding matrix; special committee reports on tribal - state liaison, jury studies, new judge orientation, the model code of judicial ethics and judicial elections; and a consideration of statute proposals for the 1992 legislative session.

Judicial Qualifications Commission

This commission, created by Article V, Section 9, of the South Dakota Constitution, and supporting statute (SDCL 16-1A), is comprised of seven members. These include 2 citizens who are not members of the state bar, appointed by the Governor; 2 judges of the circuit court, elected by the Judicial Conference; and 3 persons practicing law in the state, appointed by the president of the State Bar Association. The four year terms of the members are imbricated to promote administrative continuity.

The Judicial Qualifications Commission is primarily responsible for initiating disciplinary actions against members of the judiciary. It is empowered to receive complaints against any justice or judge, to hire personnel to investigate those complaints, and to conduct confidential hearings concerning the removal or involuntary retirement of the person subject to the inquiry. On recommendation from this commission, and after appropriate hearing, the Supreme Court may censure, remove, or retire such person for cause as specified in the Constitutional article and Supreme Court rule.

The commission also reviews applicants for vacancies on the Supreme Court and the circuit bench and nominates two or more of the most qualified to the Governor. The Governor then appoints one of those nominees to fill the vacancy.

BENCH PERSONNEL BY JUDICIAL CIRCUIT

FIRST JUDICIAL CIRCUIT, Judges:

Bogue, Richard E.
*Hertz, Ernest W.
Kern, Paul J.
Tapken, Jay H.

Law-Trained Magistrates:

**Cody, Mary Dell
Humphrey, David C.
Marmet, Robert G.

SECOND JUDICIAL CIRCUIT, Judges:

Heege, Robert C.
Hurd, Richard D.
*Kean, Gene Paul
Meierhenry, Judith
Srstka Jr., William

Law-Trained Magistrates:

**Lieberman, Peter
**Neiles, Joseph

THIRD JUDICIAL CIRCUIT, Judges:

*Bradshaw, Dale E.
Erickson, Jon
Martin, Eugene L.
Steele, Rodney J.
Timm, Robert L.

Law-Trained Magistrates:

Brekke, Dean
Pierce, Lee Ann

FOURTH JUDICIAL CIRCUIT, Judges:

Anderson, Lee
McMurchie, Boyd L.
*Miller, Ronald K.
Tucker, Tim D.

Law-Trained Magistrates:

Kiner, Patrick
Sage, Doyle

*Indicates Presiding Judge at end of fiscal year.

**Indicates Full-Time Magistrate

FIFTH JUDICIAL CIRCUIT, Judges:

Berndt, Leland J.
*Dobberpuhl, Eugene E.
Lovrien, Larry
Gilbertson, David E.

Law-Trained Magistrates:

Glynn, Richard
**Flemmer, Jon
Olander, James

SIXTH JUDICIAL CIRCUIT, Judges:

Anderson, James W.
Heck, Donald L.
*McKeever, Patrick J.
Gors, Max
Zinter, Steven L.

Law-Trained Magistrate:

Zastrow, Laurence

SEVENTH JUDICIAL CIRCUIT, Judges:

Davis, Jeff W.
Grosshans, Roland
*Konenkamp, John
Tice, Merton B. Jr.
Young, Marshall P.

Law-Trained Magistrates:

**Klauck, Jack
**O'Connor, Michael

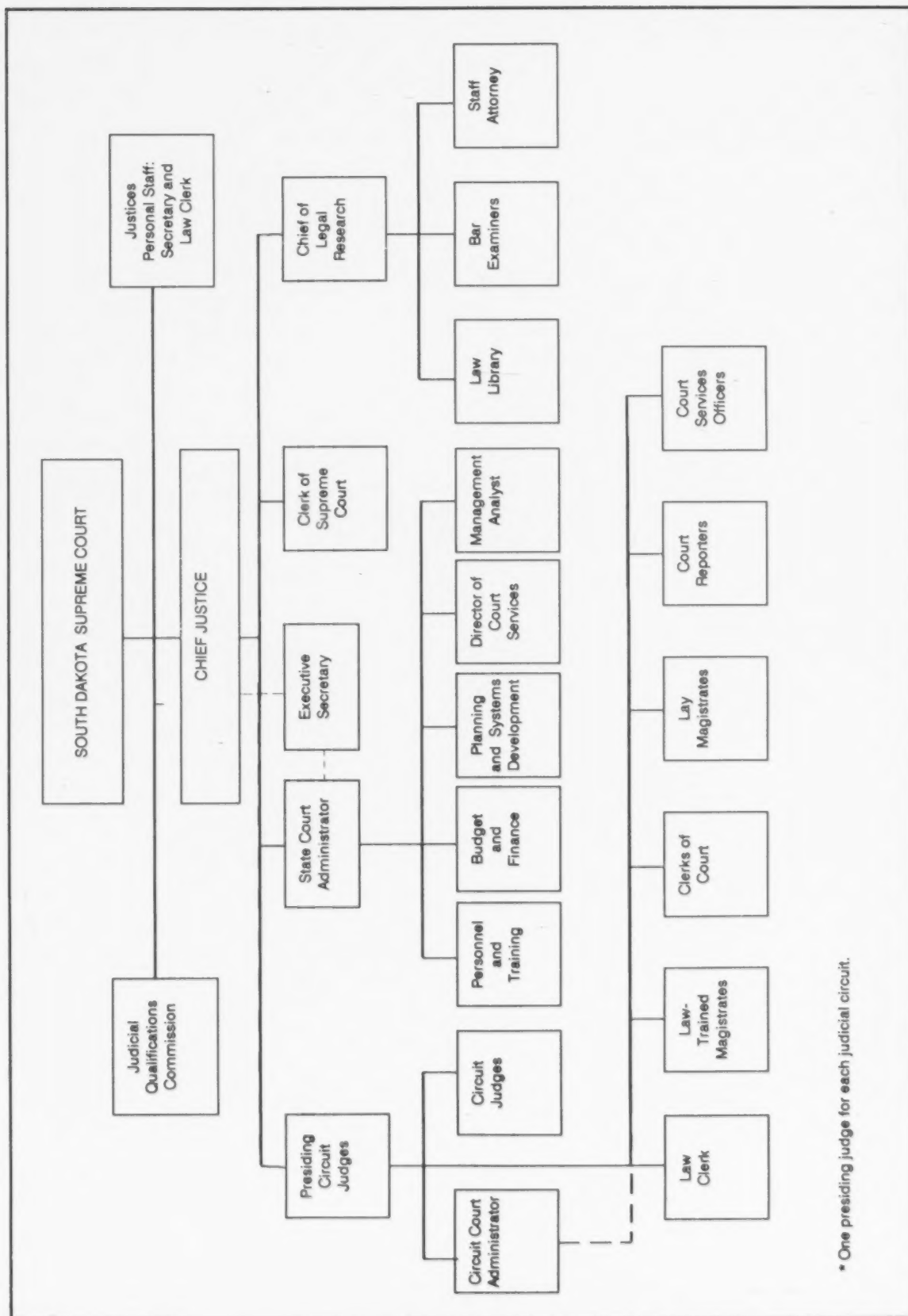
EIGHTH JUDICIAL CIRCUIT, Judges:

Johns, Timothy R.
*Johnson, Warren
Moses, Scott C.
Tschetter, Robert L.

Law-Trained Magistrates:

**Ellingson, Joseph
Severns, William L.

Table 2. Organization Chart of the Unified Judicial System



* One presiding judge for each judicial circuit.

JUDICIAL STAFFING

State Judicial Staff

Justices' Law Clerks

Each Supreme Court justice employs a law clerk to assist in the extensive writing and research effort required for the preparation of formal Supreme Court opinions. The law clerks are recent law school graduates of high academic standing. They are selected for a one-year appointment that may be renewed for an additional year.

Clerk of the Supreme Court

The clerk assists the Supreme Court, and especially the Chief Justice, in the organization of the correspondence, exhibits, and other documentation related to the formal activities of the Supreme Court. This includes monitoring the progress of all appeals and original proceedings; scheduling oral arguments before the Court; recording Court decisions, orders and directives; and controlling their release and distribution. This office is also responsible for the management of all legal records of the Court; the compilation of appellate statistics; and the documentation and dissemination of all Court rules.

Chief of Legal Research

The attorney appointed by the Supreme Court to this position performs a number of tasks to assist the Court, particularly in the disposition of the technical workload. Responsibilities of the office include the following.

- 1) As executive secretary of the bar examiners, the Chief of Legal Research assists the examiners in developing, administering, and correcting the examinations given to candidates seeking admission to the bar.
- 2) As Supreme Court law librarian, the Chief of Legal Research is responsible for supervising and maintaining the Supreme Court law library of over 40,000 volumes.
- 3) The Chief of Legal Research also coordinates the efforts of staff attorneys in the prescreening of appeals and in drafting internal working memoranda, per curiam opinions, and orders for review by the Court. The staff attorneys screen the cases brought on appeal and make suggestions to the Supreme Court regarding disposition. These attorneys also help reduce the number of Court hearings by organizing the appellate settlement conferences, previously discussed. The purpose of these conferences is to help clarify the issues of the appeal, and to promote settlement between the parties, thus avoiding an expensive appeal and the need for a formal Court opinion.

State Court Administrator's Office

Directly responsible to the Chief Justice, the State Court Administrator serves as the chief management advisor to the Supreme Court. In coordinating policy decisions and developing management programs, this office provides administrative assistance and support services to the Unified Judicial System. Through biweekly meetings with the Supreme Court, administrative issues are discussed and policy decisions made which are implemented by the State Court Administrator.

In addition to these management and policy functions, there are four major subdivisions of the office, each operating within its own sphere of administrative activity.

The Personnel and Training Division is responsible for the maintenance of the Unified Judicial System personnel rules and the administration of all aspects of personnel and training activities for judicial employees. This involves the organization and implementation of training programs for all levels of personnel, including biennial training institutes for lay magistrates, and mandatory professional development programs for judges.

The personnel and training office is also responsible for the revision of personnel rules, and for the activities related to recruitment of new personnel for the judiciary. This includes publication of notices for open positions and coordination of interviews with prospective employees.

The Budget and Finance Division is responsible for the development and administration of the annual budget request and appropriation, the supervision of the accounting system, purchasing, voucher processing and payment, and maintenance of the master inventory. This office is also responsible for the creation of new forms, and for maintaining the integrity of the accounting procedures for the Unified Judicial System.

The Division of Planning and Systems Development is responsible for computer programming and analysis, the operation and maintenance of the judicial management information system, collection of caseload data and maintenance of the system to make the data available, creation of software for use in the court system, and training of personnel in the use of computers.

The Director of Court Services, responsible to the State Court Administrator, acts as advisor on issues related to probation, problem juveniles, restitution, adult interstate compact for probationers and other court services matters. The director is also responsible for the development and coordination of all professional development activities of court services officers, and he staffs the meetings of chief court services officers.

Circuit Judicial Staff

Circuit Court Administrator

The circuit court administrators assist the presiding judge in the management of the circuit. This includes budget, personnel, accounting programs, and statistical reporting responsibility. Presently only the second and seventh circuits are staffed with full time circuit court administrators. In the other circuits, there is an administrative secretary or assistant who performs these functions.

Law Clerk

Every judicial circuit now has the benefit of the services of a full-time law clerk. These are recent law-school graduates employed to provide research assistance to the presiding judge and circuit judges in the preparation of case judgments and orders of the court.

Clerk of Court

Every county in South Dakota is assigned a clerk of court. In a few counties the clerk is employed on a part-time basis. The duties of the clerk, and the deputy clerks that assist in the office, are to organize the court calendar for the county, accept and record fines and fees, perform recordkeeping and filing functions for the courts, and maintain appropriate court records for the judicial reporting system. The clerk also assists and informs the public about the schedule of the court, proper filing procedures, and about other matters of public interest such as the small claims process. In addition, the clerk of court performs the lay magistrate functions in most counties.

The Clerks' Advisory Committee, which includes a clerk-representative from each judicial circuit, meets with the State Court Administrator, and members of his staff, periodically. The purpose of these meetings is to discuss the needs and problems of the clerks' offices, develop solutions, revise the clerks' procedures manual, and make recommendations to the presiding judges regarding administrative or legislative changes.

Court Services Officer

The duties of the court services officers include the following.

- 1) Designing and supervising juvenile diversion program services.
- 2) Conducting juvenile, misdemeanor and felony presentence investigations and preparing related writ-

ten reports and recommendations.

- 3) Providing probation services to juvenile, misdemeanor and felony probationers and their families.
- 4) Placing and supervising juvenile offenders in family foster homes and residential group care programs, and providing after care services to juveniles returning to their communities after completing this type of care or programs at correctional facilities.
- 5) Planning and collecting offender-paid victim restitution, and developing and supervising offender community-service programs.
- 6) Providing divorce custody investigations and mediation services, and monitoring divorce custody visitations and adoption investigations.
- 7) Providing public education programs, and managing community-based service activities for juvenile, misdemeanor and felony offenders and their families.
- 8) Collecting attorney fees, court costs, probation fees, work release costs, drug-buy money, and other costs and fees.
- 9) Providing interstate-compact supervision services for probationers convicted in other states who want to live and work in South Dakota.

Coordinating the activities of the court services officers are the chief court services officers, one of whom is appointed by the presiding judge in each judicial circuit.

These officers provide administrative channels of communications for the court services programs in that circuit. The chief court services officers meet with the Director of Court Services on a quarterly basis, and with the presiding judges twice each year. The primary purpose of these meetings is to review the status of current programs in order to discern problems in the court services process and develop appropriate uniform solutions. In addition, they furnish a forum for court services personnel to coordinate their activities with those of other government agencies and private resource groups.

Court Reporter

Each circuit judge and most full time law-trained magistrates are assigned a court reporter whose duty it is to keep verbatim notes of required court activities, to make these transcripts available, and to assist the court in any related needs. The court reporters also provide secretarial services for the judge.

Clerk-Magistrate Staffing

Table three, below, shows the number of persons in the various categories of clerk-magistrate and lay magistrate positions, full time and part time, by circuit.

There is a slight decrease in the total number of personnel employed in the clerk and clerk-magistrate offices, both full time and part time, during FY 1991.

CLERK-MAGISTRATE STAFFING BY CIRCUIT, FY 1991

CIRCUITS ---->	1	2	3	4	5	6	7	8	TOTAL
FULL TIME:									
Court Clerk-Magistrate	9	1	9	9	7	10	3	4	52
Deputy Court Clerk	3	20	5	0	6	0	17	0	51
Deputy Court Clerk-Magistrate	5	0	3	7	4	4	1	7	31
Accountant	0	1	0	0	0	0	0	0	1
Accounting Clerk	0	1	0	0	0	0	1	0	2
PART TIME:									
Court Clerk-Magistrate	0	0	0	1	3	3	0	4	11
Deputy Court Clerk	2	2	3	1	4	0	0	0	12
Deputy Court Clerk-Magistrate	5	0	6	6	4	11	0	6	38
Lay Magistrate	2	0	0	0	0	2	3	0	7
Document Compiler	0	0	0	0	1	0	0	0	1

Table 3. Clerk-Magistrate Staffing By Circuit

FY 1991 STAFFING ALLOCATIONS BY JUDICIAL CIRCUIT

CIRCUITS ---->	1	2	3	4	5	6	7	8	TOTAL
Bailiff	0.3	3.4	0.3	0.4	0.3	0.4	0.7	1.0	6.8
Circuit Judge	4.0	5.0	5.0	4.0	4.0	5.0	5.0	4.0	36.0
Clerk of Court	9.0	1.0	9.0	10.4	9.3	11.7	3.0	7.0	60.4
Court Administrator	0.0	1.0	0.0	0.0	0.0	0.0	1.0	0.0	2.0
Court Reporter	4.0	7.0	5.0	4.0	5.0	5.0	7.0	5.0	42.0
Court Services Officer	7.0	15.0	9.0	6.0	7.0	7.0	13.0	6.0	70.0
Deputy Clerk of Court	11.8	23.0	12.7	8.5	13.2	8.0	19.0	7.8	104.0
Law Clerk	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	8.0
Law-Trained Magistrate	2.0	2.0	0.9	1.0	1.8	0.5	2.0	1.5	11.7
Lay Magistrate	0.3	0.0	0.0	0.0	0.0	0.9	0.8	0.0	2.0
Secretary	3.5	5.0	4.5	3.0	3.7	3.0	7.5	3.0	33.2
TOTAL	42.9	63.4	47.4	38.3	45.3	42.5	60.0	36.3	376.1

Table 4. Staffing Allocations By Circuit
Staffing Allocations

Table 4 reflects full-time equivalent (FTE) positions, counting hours worked rather than the numbers of total personnel. Because many of the positions filled in the Unified Judicial System are part-time, the staffing data is represented as full-time equivalent (FTE), which is based

on hours worked per year (2080 hours = 1 FTE). So, two persons employed, each on a half-time basis, in a given position would appear in the table as 1.0 FTE.

Although the number of personnel in clerks' offices has decreased, the total FTE for the same offices has increased slightly. There has been a small decrease in the FTE numbers for bailiffs and law-trained magistrates.

FINES, FEES AND FINANCES

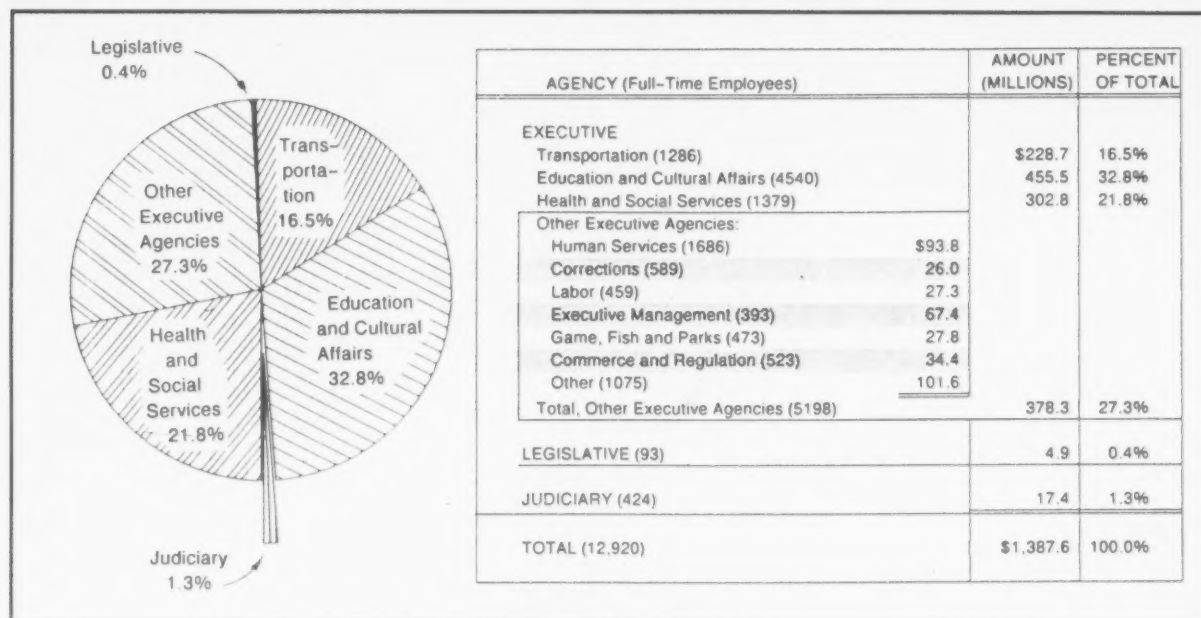


Table 5. State Budget Allocation

Financing The Unified Judicial System

The judicial system collects millions of dollars every year in fines, bond forfeitures, fees and costs. However, because of the obvious ethical questions that would be involved if court judgments produced court income, none of this money is used to finance the judicial system (refer to Table 7 on page 22). All the money collected by the judiciary, except as indicated on page 24, is disbursed into other areas of public budgeting such as the school districts or city and county general funds.

Because the judicial system of the state generates very little of its own funding, it must be financed by money from other sources, primarily the state budget. As demonstrated in the budget allocation data above, the judiciary's share of the budgetary pie is minuscule in comparison with that of major executive-branch agencies.

The state has the responsibility of funding the operations of the Supreme Court, the State Court Administrator's Office, circuit courts, clerks of court, court services programs, the out-of-home placement cost for juveniles, and training. State funding provides for personal services, which include salaries and benefits, for the employees in these operations. This cost for FY 1991 was 12.1 million dollars for 379 full-time and 92 regular part-time employees.

The state also funded operating costs of 3.9 million dollars in fiscal year 1991. These operating costs include

travel, contractual services, supplies and materials, and capital assets.

In addition to state funding, city and county governments are required by state law to pay for certain court related expenses.

The responsibility of the county in supporting its court operation includes all jury and witness fees, and transcript costs and attorney fees for indigent defense. Also, counties are required to provide operational facilities for the circuit court, clerks of court, and court services. These facilities include office space, courtrooms, jury rooms, and other meeting rooms needed to support the courtroom activities. In addition, many counties maintain their own county law libraries, partially funded from a law library fee collected on each civil filing in the circuit court.

In FY 1989, the legislature required the counties to reimburse the state's general fund 10% of the total expenditures for the operation of the Unified Judicial System. This requirement continued until FY 1991, when the reimbursement is reduced to 5%. FY 1991 is the last year that the counties were required to pay reimbursement.

The total amount of the reimbursement is pro-rated to each county, based upon percentage of the state population that resides in the county. Credits are allowed to the county for the amount of space provided for the operation of the courts. Beginning in July, 1987, some counties receive a credit for people living on land that is not subject to jurisdiction of the state.

Municipalities are generally required to provide funding to support activities that are necessary to enforce municipal ordinances and bylaws. This includes jury fees, witness fees, and transcript costs and attorney fees for indigent defendants, as all of these are applicable to city ordinance. Municipalities also provide facilities for some magistrates' courts. These facilities consist of office space, courtrooms, and other meeting rooms to support formal court activities. The legislature requires that the state general fund receive 35% of all fines, penalties and forfeitures collected for violation of municipal ordinances.

The State Court Administrator's office manages the fiscal operations of the Unified Judicial System. This includes assisting the Supreme Court in the preparation and submission of the annual consolidated budget request; the administration of the operating budget; and the management of the uniform accounting of all receipts and disbursements of funds for the circuit and magistrate courts. The definitions below apply to the categories of accounting information in Table 6.

DEFINITIONS OF RECEIPT CATEGORIES

City Fines: Fines Collected for violations of city ordinances, of which 65% is paid into the city general fund and 35% is paid into the state general fund for services provided by the Unified Judicial System.

City Costs: Costs levied in conjunction with city fines as reimbursement to the city for an identifiable amount spent by the city in prosecuting a case. These funds are paid into the city general fund.

City Forfeitures: Forfeitures of bonds posted for violation of a city ordinance. These funds are also paid into the city general fund (65%) and the state general fund (35%).

State Fines: Fines collected for violations of state laws. These are paid into the county treasury for eventual transfer to the school district of the county in which the violation occurred.

State Costs: Money collected in conjunction with state fines to cover county costs. These are deposited in the county general fund.

State Forfeitures: Forfeitures of bonds posted for violations of state laws. This money is paid into the county general fund.

Cash Fees: Fees charged for the filing of various civil actions. This money is paid into the county general fund.

Law Library Fee: A fee of \$1.00 or \$3.00 charged in addition to the civil case filing fee and used to support the county law library.

Liquidated costs: A \$15.00 surcharge assessed for all criminal convictions. Eleven dollars is used for training of law enforcement, corrections, and judicial personnel. Four dollars is used to reimburse counties for counsel appointed to defend indigent criminal defendants. The money is paid into the state treasury for distribution.

Court Automation Surcharge: a surcharge of \$2.50 assessed on all criminal prosecutions and most civil actions (other than small claims) to fund court automation costs.

Court-Appointed Attorney Fee: A cost recovered from indigent defendants to reimburse the county general fund for payment of the defendant's court-appointed attorney. The money is paid to the county treasurer.

Petty Offense Judgment: A judgment of \$20 assessed for minor state violations designated as petty offenses. The money is deposited in the treasury of the county.

Restitution: Money collected by the court from a defendant to reimburse the victim for monetary loss caused by the crime. The money is paid to the victim.

Posted Bonds: Bonds posted in conjunction with a criminal case. This money is either forfeited and used to pay subsequent fines and costs, or returned to the defendant.

Child Support: Payments ordered by the court from one party in a divorce action to the other party as financial support for the children involved.

Trust Fund: Money deposited with the clerk pending a decision regarding ownership. Also long-term bonds posted in criminal cases. Examples are Supreme Court appeal bonds or specific performance (peace) bonds.

NSF Charge: \$20 charged to a person who issues to the state, or a political subdivision, a check or other draft that is not honored by his bank.

Change of Venue: Fees or fines collected to be paid to another county court.

Civil Forwarding: Payments collected in conjunction with a civil case and forwarded to the legal recipient.

Passports: Fees collected for processing of U. S. passport applications.

Other: Collections that do not fit any of the foregoing categories.

**CLERK OF COURT RECEIPTS AND DISBURSEMENTS
FISCAL YEAR 1991**

CIRCUITS --->	FIRST	SECOND	THIRD	FOURTH	FIFTH	SIXTH	SEVENTH	EIGHTH	TOTAL
Cash Receipts:									
Posted Bonds	\$283,989	\$416,652	\$145,720	\$152,740	\$220,857	\$213,157	\$524,161	\$158,419	\$2,115,695
City Fines	158,236	378,057	116,402	63,069	99,465	67,586	91,990	60,258	1,035,063
City Costs Recovered	148	470	90	70	2,796	460	0	225	4,259
City Forfeitures	150	3,774	9,145	193	150	0	0	0	13,412
State Fines	1,134,771	953,600	663,683	571,961	682,437	590,361	738,878	798,084	6,133,775
State Costs Recovered	14,956	40,598	16,512	7,178	13,475	22,370	120,959	30,537	266,585
State Forfeitures	7,650	27,132	2,389	2,491	7,360	6,002	9,150	2,445	64,619
Liquidated Costs	342,748	429,255	184,658	172,166	206,823	175,622	269,499	177,241	1,958,012
Automation Surcharge	57,668	74,812	33,892	30,186	37,568	30,124	45,920	31,032	341,202
Cash Fees	97,386	166,663	98,993	66,592	97,505	61,753	145,328	64,994	799,214
Law Library Fee	14,541	25,643	14,857	10,379	14,429	8,412	23,781	9,957	121,999
Small Claims Postage	7,322	9,279	7,613	5,339	5,404	4,015	11,782	4,160	54,914
Petty Offense Fines	2,002	75	700	20	1,950	4,300	3,115	940	13,102
Restitution	176,314	306,222	125,938	100,519	133,622	94,737	296,054	78,899	1,312,305
Cl. Appld. Atty. Fees	20,507	13,568	52,606	13,193	43,160	48,917	42,000	23,533	257,484
NSF Check Charges	900	800	620	290	260	780	1,220	520	5,390
Change of Venue	1,015	0	332	234	406	2,456	55	488	4,986
Child Support, Cash	21,655	0	9,278	3,516	25,894	10,128	292,045	0	362,516
Child Support, Checks	1,256,779	2,012,776	2,919,350	1,458,344	1,777,687	1,444,992	3,887,601	1,308,600	16,066,129
Civil Forwarding	182,006	0	34,718	22,474	16,982	41,516	7,959	18,763	324,418
Passports	441	0	427	441	349	1,218	503	504	3,883
Trust Fund	81,697	226,005	7,737	154,147	231,219	616,302	483,866	210,991	2,011,964
Other	48,020	10,348	4,874	3,518	7,998	2,592	291,950	1,173	370,473
CIRCUIT TOTALS	\$3,910,901	\$5,095,729	\$4,450,534	\$2,839,060	\$3,627,796	\$3,447,800	\$7,287,816	\$2,981,763	\$33,641,399
Cash Disbursements:									
Bond Refunds	226,875	445,471	144,581	144,759	231,151	188,613	492,768	134,637	2,008,855
Remitted to State	457,209	638,501	263,940	225,145	279,836	230,929	349,090	230,405	2,675,055
Remitted to Cities	103,098	248,861	81,723	41,165	67,597	44,390	59,852	39,357	685,843
Remitted to Counties	1,291,624	1,226,695	850,153	671,890	860,316	743,343	1,082,936	930,586	7,657,543
Change of Venue	1,015	541	332	272	406	2,484	55	488	5,593
Restitution	169,375	295,497	122,901	103,215	133,041	86,825	289,381	76,763	1,276,998
Small Claims Postage	7,322	9,279	7,613	5,355	5,404	4,018	11,781	4,160	54,932
Child Support, Cash	21,655	0	9,278	3,516	25,894	10,128	292,084	0	362,555
Child Support, Checks	1,256,779	2,012,776	2,919,350	1,458,344	1,777,687	1,444,992	3,887,601	1,308,600	16,066,129
Civil Forwarding	182,006	0	34,718	22,474	16,982	41,516	7,959	18,763	324,418
Trust Fund	76,012	234,367	57,782	82,955	423,281	1,187,483	404,315	212,429	2,678,624
Other	48,193	10,398	4,029	3,449	7,977	1,858	292,050	1,193	369,147
CIRCUIT TOTALS	\$3,841,163	\$5,122,186	\$4,496,400	\$2,762,539	\$3,829,572	\$3,986,579	\$7,169,872	\$2,957,381	\$34,165,692

Table 6. Clerk of Court Receipts and Disbursements Fiscal Year 1991

**CLERK OF COURT RECEIPTS COMPARED
FY 1987 TO FY1991**

	FY 1987	FY 1988	FY 1989	FY 1990	FY 1991
<i>Cash Receipts:</i>					
<i>Posted Bonds</i>	\$1,432,455	\$1,372,219	\$1,860,918	\$1,921,951	\$2,115,695
<i>City Fines</i>	1,027,712	986,357	1,032,041	1,063,739	1,035,063
<i>City Costs Recovered</i>	4,128	6,592	5,967	6,399	4,259
<i>City Forfeitures</i>	12,245	17,911	16,429	13,255	13,412
<i>State Fines</i>	5,746,279	5,739,815	5,689,336	5,913,254	6,133,775
<i>State Costs Recovered</i>	224,837	193,014	215,992	231,067	266,585
<i>State Forfeitures</i>	103,989	91,949	79,839	83,919	64,619
<i>Liquidated Costs</i>	1,709,583	1,911,784	2,001,008	2,051,979	1,958,012
<i>Automation Surcharge</i>					341,202
<i>Cash Fees</i>	805,278	789,881	792,631	774,603	799,214
<i>Law Library Fee</i>	69,518	67,726	66,250	112,638	121,999
<i>Small Claims Postage</i>	38,279	40,139	45,914	46,454	54,914
<i>Petty Offense Fines</i>	7,187	7,669	7,387	8,947	13,102
<i>Restitution</i>	824,885	899,903	920,627	1,033,950	1,312,305
<i>Ct. Apptd. Atty. Fees</i>	139,425	196,674	188,299	233,729	257,484
<i>NSF Check Charges</i>					5,390
<i>Change of Venue</i>					4,986
<i>Child Support, Cash</i>					362,516
<i>Child Support, Checks</i>					16,066,129
<i>Child Support, Total</i>	11,474,749	12,547,327	13,828,839	14,765,481	16,428,645
<i>Civil Forwarding</i>					324,418
<i>Passports</i>					3,883
<i>Trust Fund</i>	943,217	1,208,999	1,154,658	1,522,141	2,011,964
<i>Other</i>	398,466	477,325	507,004	517,989	370,473
CIRCUIT TOTALS	\$24,962,233	\$26,555,284	\$28,413,139	\$30,301,495	33,641,399
<i>Cash Disbursements:</i>					
<i>Bond Refunds</i>	1,442,059	1,448,094	1,736,999	1,859,369	2,008,855
<i>Remitted to State</i>	2,075,994	2,265,442	2,371,286	2,436,553	2,675,055
<i>Remitted to Cities</i>	680,548	659,767	687,557	706,928	685,843
<i>Remitted to Counties</i>	7,101,875	7,088,606	7,039,156	7,357,859	7,657,543
<i>Change of Venue</i>	3,141	2,660	2,618	3,665	5,593
<i>Restitution</i>	771,370	912,086	903,400	1,015,314	1,276,998
<i>Small Claims Postage</i>	32,090	40,127	45,917	46,420	54,932
<i>Child Support, Cash</i>					362,555
<i>Child Support, Checks</i>					16,066,129
<i>Child Support, Total</i>	11,474,749	12,547,327	13,828,839	14,765,481	16,428,684
<i>Civil Forwarding</i>					324,418
<i>Trust Fund</i>	768,129	694,558	852,994	1,753,765	2,678,624
<i>Other</i>	393,119	519,429	502,192	509,206	369,147
CIRCUIT TOTALS	\$24,743,074	\$26,178,096	\$27,970,958	\$30,454,560	\$34,165,692

Table 7. Clerk of Court Receipts and Disbursements Compared

Receipts

Chart 2, below, shows some of the types of receipts collected by the clerk of court offices throughout the state. Restitution is the amount of money required by the court to be paid to the victim of a crime by an offender. The collection, accounting, and disbursement of the restitution is the joint responsibility of the court services officer and the clerk of court. It represents one of the ways in which the court system assists the victim of the crime, in addition to the punishment of the criminal by fine or incarceration.

From 1985 through 1989, restitution increased a little over 50%. During the five-year period from 1987 through 1991, the increase was almost 60%. In 1990 there was a 12% increase, and in 1991 there was an increase of 21%.

The "fees" category represents the money paid by the public for services rendered by the court, such as providing transcripts of certain records in the court offices. Also, fees are collected for the filing--that is, at the beginning--of non-criminal court actions (small claims, probate, divorce, etc.). Total fees demonstrate a very gradual but fairly steady decline over the five-year period from 1986 through 1990. This year, the amount of fee receipts shows a small increase, reflecting a rise in overall civil filings for the past two years.

Court-appointed attorney costs are paid initially by the county or city for accused persons who are unable to pay for a lawyer. The court assists in the collection of repayment of these attorney fees from the defendant, sometimes requiring repayment as a condition of probation. The amount of this repayment is shown in the chart below. The 10% increase in FY 1991 includes only the portion of court-appointed attorney costs that were repaid by the defendant. The defendant's payment percentage of the total court-appointed attorney cost this year is about the same as fiscal year 1990. See tables 9 and 10.

In addition to this direct repayment from the defendant, a certain portion of the costs collected on all criminal convictions is set aside and returned to the counties as a percentage of repayment for the total paid by the county for court appointed attorneys. This apportionment of costs is specified by SDCL 23-3-53 and is explained in some detail in the material following, under the title of "Fines and Costs." Also, Chart 9 on page 29 shows a comparison of total such costs and repayment over the five-year period since the beginning of FY 1987. Other details of repayment for court-appointed attorneys can be found on Tables 9 and 10, and the charts associated with those.

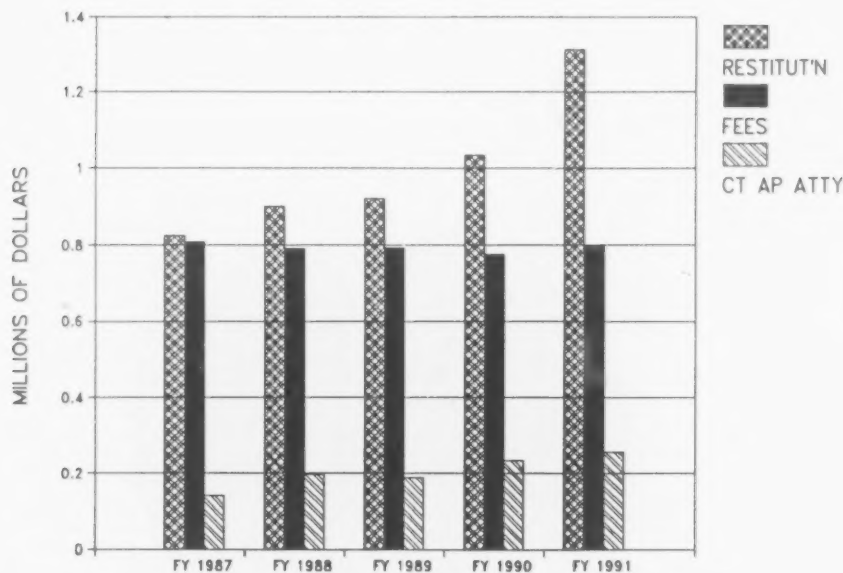


Chart 2. Selected Receipts Compared, Restitution, Fees, Court-Appointed Attorney Repayment

Fines and Costs

Chart 3, below, shows a comparison, by fiscal year, of fines and costs collected for criminal cases. State fines are assessed for violations of state laws and are deposited for use by the school district of the county in which the violation occurred. Of the city fine receipts, which are charged for violation of municipal ordinances, 65% of the amount is returned to the city general fund, and 35% to the state general fund.

The liquidated costs figure is collected as \$15.00 added to all fines for conviction of state statutes, criminal offenses, and county or municipal traffic regulations (SDCL 23-3-52). The liquidated cost assessment, which was previously \$12.00, was raised to \$15.00 beginning in fiscal year 1988.

Liquidated costs for the five-year period from 1986 through 1990 increased by 32%. In 1991, there was a slight decline in the total amount of collections. The amount is just under \$2 million. If total costs were collected this year on each case, this would mean there were 130,534 cases on which the costs were received this year, as compared with 136,799 in the previous year. In fact, the court occasionally waives the liquidated cost assessment, or some portion of it, if there appears to be financial hardship involved for the defendant.

The total disbursement of liquidated costs is divided two ways. The following is an approximate breakdown that may not correspond precisely to the actual expenditure amounts. Of the total \$1,958,012, 73% (\$1,429,348) is to be used, according to SDCL 23-3-55, for law enforcement training, highway safety law enforcement training, the operation of the statewide drug enforcement unit, state law enforcement equipment, the state crime laboratory, the training of corrections personnel, the training of prosecutors and Unified Judicial System personnel, and for other law enforcement purposes.

The remaining portion, about 27% (\$528,663), is returned to the counties on a percentage basis for the payment of public defenders and court-appointed attorneys representing low-income defendants accused of crimes. This money is to be distributed annually by the state treasurer according to SDCL 23-3-53. See table 9 on page 30, for a county-by-county distribution of these funds.

After a three-year decline in state fine receipts from 1987 to 1989, the past two years show an increase of about 8%. This reflects a corresponding increase in the number of traffic offense fines collected over the same period. City fines receipts remain stable over the five-year period shown.

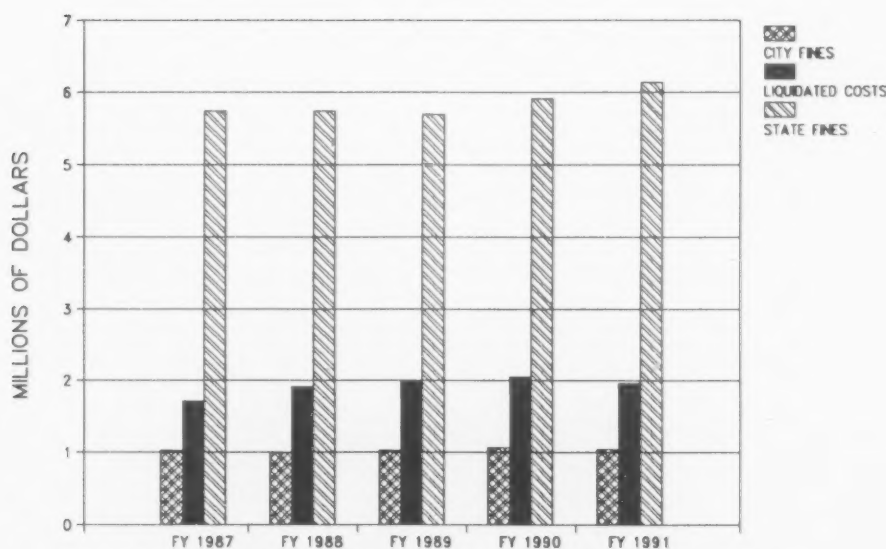


Chart 3. Selected Receipts Compared, Fines and Liquidated Costs

Child Support

In chart 4, in addition to total receipts, the two categories that comprise the largest share of money handled by the courts--child support and state fines--are also presented. Over the past four years, total receipts and child support receipts show a gradual increase. Child support payments have increased by 43% since 1987, as they continue the rising trend that has been evident for more than five years.

State fines have remained fairly stable over the past five years, increasing slightly in FY 1990 and FY 1991.

Child support payments, the largest single component of receipts processed by the clerks' offices, represent a significant service performed by the courts for the public. The clerks of court in these cases serve as bookkeeper and collection agency for the recipient parent, and ensure that the paying parent discharges the responsibility required by the courts.

Disbursements

Chart 5 shows funds disbursed by the clerks of court to the state and its political subdivisions. Funds remitted to the counties include state fine amounts returned for school districts in accordance with Article VIII, Section 3 of the South Dakota Constitution. Changes over the years in these disbursements reflect the state-fine amounts shown on Table 3.

Disbursements to the counties, which include state fines, costs and forfeitures, and various fees for civil filings, show a noticeable increase over the past two years.

Disbursements to the cities are primarily city fines collected. They have remained stable over the five-year period shown. The amount remitted to the cities is about 65% of the city fines collected. The remaining 35% is remitted to the state.

Amounts remitted to the state include liquidated costs and the 35% portion of city fines indicated above. Liquidated costs were increased in 1988 from \$12 per case to \$15 per case. There has been a steady increase in disbursements to the state over the past five years.

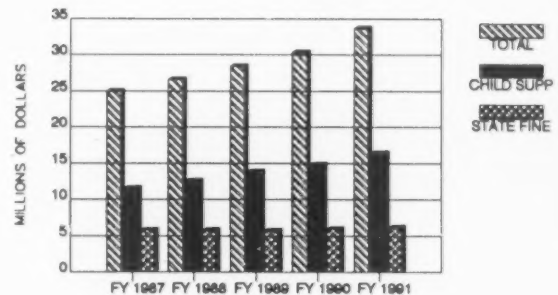


Chart 4. Selected Receipts Compared, Total, Child Support, State Fines

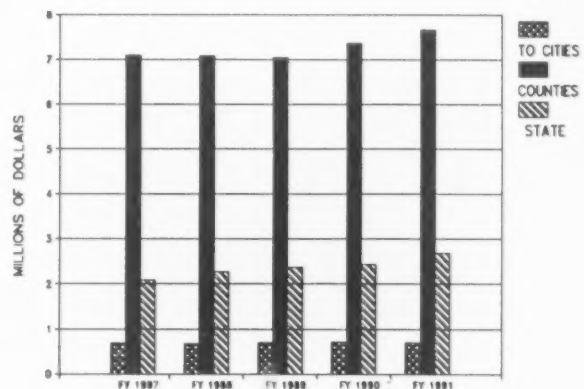


Chart 5. Selected Disbursements Compared

**COMPARISON OF STATE FINES, BY COUNTY AND CIRCUIT:
FROM FY 1987 TO FY 1991**

<i>Counties:</i>	<i>FY 1987</i>	<i>FY 1990</i>	<i>FY 1991</i>	<i>% Change FY87 to FY91</i>	<i>Counties:</i>	<i>FY 1987</i>	<i>FY 1990</i>	<i>FY 1991</i>	<i>% Change FY87 to FY91</i>
1st Circuit					5th Circuit				
<i>Bon Homme</i>	\$45,455	\$41,198	\$46,977	3.3%	<i>Brown</i>	\$237,631	\$248,323	\$253,311	6.6%
<i>Charles Mix</i>	95,333	58,983	83,428	-12.5%	<i>Campbell</i>	9,399	10,874	7,103	-24.4%
<i>Clay</i>	111,013	115,527	116,187	4.7%	<i>Day</i>	63,121	48,060	49,896	-21.0%
<i>Douglas</i>	18,556	21,109	24,312	31.0%	<i>Edmunds</i>	38,977	26,662	23,815	-38.9%
<i>Hutchinson</i>	42,355	39,426	39,567	-6.6%	<i>Faulk</i>	34,734	14,876	15,966	-54.0%
<i>Lincoln</i>	96,858	119,815	102,877	6.2%	<i>Marshall</i>	31,173	31,052	33,423	7.2%
<i>Turner</i>	26,779	32,428	26,345	-1.6%	<i>McPherson</i>	10,549	5,152	3,488	-66.9%
<i>Union</i>	372,973	502,374	441,296	18.3%	<i>Roberts</i>	160,098	144,615	145,437	-9.2%
<i>Yankton</i>	226,507	227,638	253,783	12.0%	<i>Spink</i>	72,225	52,906	50,254	-30.4%
TOTAL	\$1,035,829	\$1,158,498	\$1,134,772	9.6%	<i>Walworth</i>	86,463	82,413	99,744	15.4%
2nd Circuit					TOTAL	\$744,370	\$664,933	\$682,437	-8.3%
<i>Minnehaha</i>	\$746,859	\$844,578	\$953,600	27.7%	6th Circuit				
3rd Circuit					<i>Bennett</i>	\$33,473	\$31,686	\$32,212	-3.8%
<i>Beadle</i>	\$133,270	\$141,346	\$119,042	-10.7%	<i>Gregory</i>	32,675	25,752	22,888	-30.0%
<i>Brookings</i>	157,101	164,798	165,885	5.6%	<i>Haakon</i>	19,249	20,330	18,169	-5.6%
<i>Clark</i>	32,036	31,680	43,786	36.7%	<i>Hughes</i>	140,832	134,338	139,326	-1.1%
<i>Codington</i>	131,850	120,336	127,351	-3.4%	<i>Hyde</i>	12,487	16,914	10,881	-12.9%
<i>Deuel</i>	38,350	44,779	39,418	2.8%	<i>Jackson</i>	67,129	91,455	95,641	42.5%
<i>Grant</i>	29,512	67,462	78,777	166.9%	<i>Jones</i>	25,303	28,407	27,236	7.6%
<i>Hamlin</i>	23,607	27,807	35,984	52.4%	<i>Lyman</i>	59,997	98,946	88,857	48.1%
<i>Hand</i>	32,139	28,159	23,227	-27.7%	<i>Mellette</i>	9,471	7,507	6,905	-27.1%
<i>Kingsbury</i>	28,700	26,118	30,212	5.3%	<i>Potter</i>	19,052	26,999	25,000	31.2%
TOTAL	\$606,565	\$652,485	\$663,682	9.4%	<i>Stanley</i>	62,539	40,104	45,326	-27.5%
4th Circuit					<i>Sully</i>	16,065	20,393	13,956	-13.1%
<i>Aurora</i>	\$39,573	\$28,249	\$26,817	-32.2%	<i>Todd-Tripp</i>	67,747	70,566	63,966	-5.6%
<i>Brule</i>	51,855	62,827	60,973	17.6%	TOTAL	\$566,019	\$613,397	\$590,363	4.3%
<i>Buffalo</i>	1,702	935	1,868	9.8%	7th Circuit				
<i>Davison</i>	138,912	141,476	161,805	16.5%	<i>Custer</i>	\$72,268	\$75,544	\$81,224	12.4%
<i>Hanson</i>	24,744	18,955	25,810	4.3%	<i>Fall River</i>	61,815	63,135	65,781	6.4%
<i>Jerauld</i>	22,904	42,179	26,518	15.8%	<i>Pennington</i>	532,274	538,845	591,873	11.2%
<i>Lake</i>	66,283	54,001	61,725	-6.9%	TOTAL	\$666,357	\$677,524	\$738,878	10.9%
<i>McCook</i>	43,807	36,992	41,411	-5.5%	8th Circuit				
<i>Miner</i>	21,816	22,595	22,323	2.3%	<i>Butte</i>	\$74,760	\$65,777	\$52,707	-29.5%
<i>Moody</i>	81,333	104,227	121,869	49.8%	<i>Corson</i>	23,453	18,430	10,485	-55.3%
<i>Sanborn</i>	13,851	20,285	20,845	50.5%	<i>Dewey</i>	9,305	10,424	13,716	47.4%
TOTAL	\$506,780	\$532,721	\$571,964	12.9%	<i>Harding</i>	22,235	21,516	17,104	-23.1%
					<i>Lawrence</i>	282,413	279,333	262,836	-6.9%
					<i>Meade</i>	413,745	347,811	408,241	-1.3%
					<i>Perkins</i>	40,919	21,674	30,119	-26.4%
					<i>Ziebach</i>	6,670	4,151	2,876	-56.9%
State Total:	\$5,746,279	\$5,913,252	\$6,133,780	6.7%	TOTAL	\$873,500	\$769,116	\$798,084	-8.6%

Table 8. State Fine Receipts Compared by County & Circuit

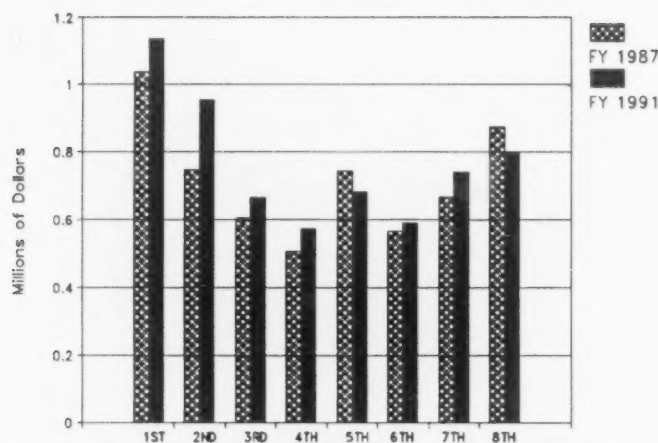


Chart 6. State Fine Receipts Compared by Circuit
FY87-FY 91

Comparison of State Fines

In Table 8 on the preceding page, total state fine receipts are compared between fiscal years 1987, 1990 and 1991. The associated graphics on chart 6 show a comparison of state fine receipts between FY 1987 and FY 1991, and on chart 7 from FY 1989 through FY 1991.

Chart 6 shows that receipts from state fines increased in all circuits except the fifth and the eighth during the five-year period shown. The total increase statewide for the period was 6.7%. The first circuit handles the largest total receipt amounts. For FY 1991, Table 8 shows that the combined receipts of Union County and Meade County are greater than those of six circuits. This is apparently due to the high level of activity at the truck weigh stations

in those two counties. Lawrence and Yankton Counties also showed receipts of over \$200,000.

Chart 7, showing receipts for the past three years, indicates that the second, seventh and eighth circuit receipts seem to be steadily increasing, and those of the sixth circuit decreasing, but there is not a discernible three-year pattern for the remainder of the circuits.

The comparison of state fines in Table 8 also shows the percent change for the five-year period for each county. Among the counties showing increases of over 30% for the period were Douglas, Clark, Grant, Hamlin, Moody, Sanborn, Jackson, Lyman, Potter and Dewey.

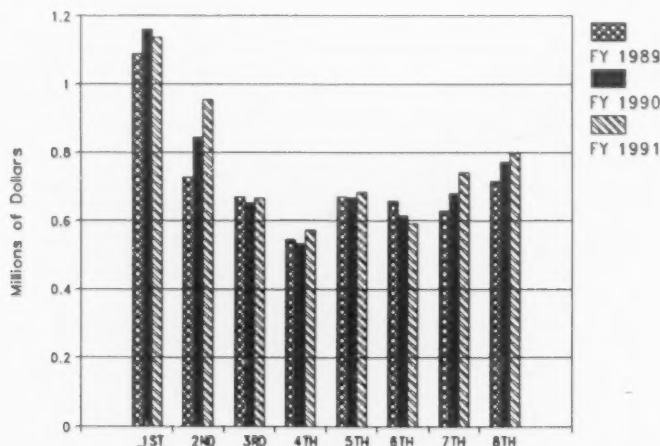


Chart 7. State Fine Receipts Compared Circuit
FY 89-FY 91

Court Appointed Attorney Costs

Table 9, page 30, shows costs and repayment for court-appointed attorneys and public defenders. Chart 8 is a graphic summary comparison of court-appointed attorney costs and repayment by circuit for FY 1991. Minnehaha (second circuit) and Pennington (seventh circuit) are the two counties that use their own public defender system. This means that the county pays a full-time legal staff to provide for the defense of economically disadvantaged persons accused of crime. Lawrence and Butte Counties (eighth circuit) also share a full-time public-defender office.

The data presented in these tables apply only to defense for felonies and class-one misdemeanors. Some counties, such as Lawrence and Butte, also occasionally employ court-appointed counsel in defense of class-two misdemeanor offenders.

There are also a significant number of court-appointments for juvenile offenders. The cost of these appointments is included in the data, but the appointments are not included. This means there is a possibility of distortion in the county data on Table 10. On that table, in which the total cost is divided by class-one misdemeanor and felony court appointments, the cost may appear higher than it actually is because the cost figure includes the cost of attorneys appointed for juvenile actions that may not be class-one misdemeanor or felony violations.

In counties where there is no public defender system, judges or magistrates appoint local attorneys to defend indigent defendants. Repayment policies are the same for both types of county. Generally, the defendant, regardless of whether he is convicted, is expected to repay the cost of the court-appointed attorney. If repayment is not made, the county may file a lien against the defendant for the court-appointed attorney cost.

In addition to the costs repaid by the defendant, state law has established a court-appointed attorney fund, into which is paid \$4.00 as costs from each criminal conviction, including traffic violations (The fund is discussed on page 24). The fund this year has provided an allocation to each county of approximately 17% of the court-appointed attorney costs incurred. This figure is shown in the second numerical column on Table 9.

The data on Table 10, page 31, shows an approximate average cost to the county for each court-appointed attorney case. This is computed by dividing the total payment for the fiscal year by the total number of court appointment cases.

Table 10 also shows the percent of total class-one misdemeanor and felony filings that result in court appointment of an attorney. The state average is that 37% (about one out of three) of such filings result in the appointment of an attorney at county expense. This percentage is slightly lower than that of the previous year, but reflects an increase in the total cost of court-appointed attorneys from '90 to '91.

State-wide, the cost of court appointed counsel has increased by \$506,351 (about 19%) during the year, as compared with a 10% increase the previous year. This type of cost is difficult to predict from year to year because it depends on the number of serious criminal prosecutions that might develop in any county. The costs for the second circuit (Minnehaha County), for example, increased from FY 1986 to FY 1987 by \$252,797, primarily through the prosecution of three extensive criminal trials. That increase would represent almost 10% of the 1990 total expenditure.

As shown in chart 8, the gap between the cost of court appointed attorneys, and the payback, has increased significantly over the past two years. The costs are increasing while the payback shows very little change. Since 1986, court-appointed attorney costs have increased by 80%.

Chart 9 shows the distribution of court-appointed attorney costs by circuit. The costs have increased this year in each circuit and, while the amount paid by the defendant has increased in all circuits except the first, second and fourth, the statutory allocation is not keeping pace with the costs. In FY 1990, the allocation was 21% of costs; in FY 1991, it had decreased to 17%. In addition, the (SDCL 23-3-53) allocation was reduced by the 1991 legislature, so the percentage of payment by statute will probably be much smaller for FY 1992.

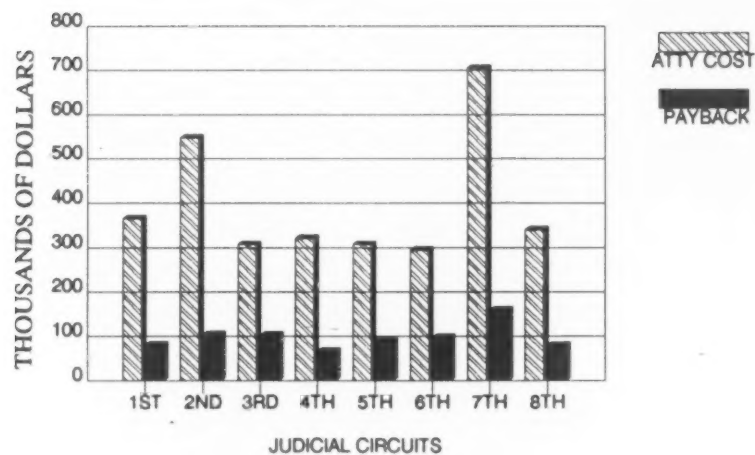


Chart 8. Court Appointed Attorney Repayment, by Circuit

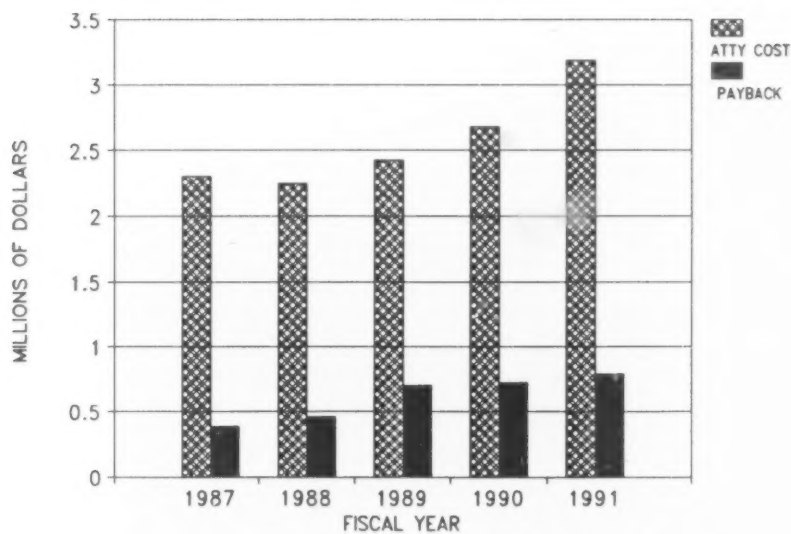


Chart 9. Court-Appointed Attorney Cost Payback by Fiscal Year

**COUNTY EXPENDITURES AND REPAYMENT
FOR COURT APPOINTED ATTORNEYS**

<i>COUNTIES</i>	<i>Paid by County</i>	<i>Allocated by Statute</i>	<i>Paid by Defendant</i>	<i>Percent Repaid</i>		<i>COUNTIES</i>	<i>Paid by County</i>	<i>Allocated by Statute</i>	<i>Paid by Defendant</i>	<i>Percent Repaid</i>
<i>1st Circuit</i>						<i>5th Circuit</i>				
<i>Bon Homme</i>	\$14,442	\$2,402	\$0	17%		<i>Brown</i>	\$206,032	\$34,263	\$29,727	31%
<i>Charles Mix</i>	48,207	8,017	1,584	20%		<i>Campbell</i>	619	103	0	17%
<i>Clay</i>	74,519	12,392	3,563	21%		<i>Day</i>	16,505	2,745	2,604	32%
<i>Douglas</i>	3,832	637	200	22%		<i>Edmunds</i>	9,404	1,564	930	27%
<i>Hutchinson</i>	24,548	4,082	2,420	26%		<i>Faulk</i>	0	0	0	0%
<i>Lincoln</i>	78,915	13,123	2,544	20%		<i>Marshall</i>	11,022	1,833	1,090	27%
<i>Turner</i>	9,449	1,571	220	19%		<i>McPherson</i>	0	0	0	0%
<i>Union</i>	28,349	4,714	2,477	25%		<i>Roberts</i>	33,122	5,508	3,111	26%
<i>Yankton</i>	82,255	13,679	7,500	26%		<i>Spink</i>	12,179	2,025	4,287	52%
TOTAL	\$364,516	\$60,617	\$20,508	22%		<i>Walworth</i>	17,682	2,940	1,412	25%
<i>2nd Circuit</i>						TOTAL	\$306,565	\$50,981	\$43,161	31%
<i>Minnehaha</i>	\$547,118	\$90,985	\$13,568	19%		<i>6th Circuit</i>				
<i>3rd Circuit</i>						<i>Bennett</i>	\$21,784	\$3,623	\$2,059	26%
<i>Beadle</i>	\$66,749	\$11,100	\$11,844	34%		<i>Gregory</i>	31,563	5,249	173	17%
<i>Brookings</i>	53,955	8,973	15,795	46%		<i>Haakon</i>	5,597	931	0	17%
<i>Clark</i>	19,299	3,209	1,939	27%		<i>Hughes</i>	133,235	22,157	27,434	37%
<i>Codington</i>	120,696	20,072	11,970	27%		<i>Hyde</i>	1,037	173	608	75%
<i>Deuel</i>	14,968	2,489	4,936	50%		<i>Jackson</i>	10,577	1,759	1,098	27%
<i>Grant</i>	2,947	490	1,300	61%		<i>Jones</i>	161	27	401	266%
<i>Hamlin</i>	8,249	1,372	2,076	42%		<i>Lyman</i>	10,386	1,727	4,654	61%
<i>Hand</i>	3,884	646	238	23%		<i>Mellette</i>	16,157	2,687	3,059	36%
<i>Kingsbury</i>	16,223	2,698	2,508	32%		<i>Potter</i>	10,957	1,822	0	17%
TOTAL	\$306,970	\$51,049	\$52,606	34%		<i>Stanley</i>	15,735	2,617	5,546	52%
<i>4th Circuit</i>						<i>Sully</i>	971	161	1,568	178%
<i>Aurora</i>	\$17,103	\$2,844	\$3,066	35%		<i>Todd-Tripp</i>	36,776	6,116	2,317	23%
<i>Brule</i>	28,755	4,782	501	18%		TOTAL	\$294,936	\$49,049	\$48,917	33%
<i>Buffalo</i>	0	0	0	0%		<i>7th Circuit</i>				
<i>Davison</i>	132,793	22,083	1,536	18%		<i>Custer</i>	\$68,162	\$11,335	\$200	17%
<i>Hanson</i>	6,029	1,003	0	17%		<i>Fall River</i>	62,431	10,382	8,729	31%
<i>Jerauld</i>	4,863	809	1,914	56%		<i>Pennington</i>	574,579	95,552	33,071	22%
<i>Lake</i>	16,729	2,782	2,783	33%		TOTAL	\$705,172	\$117,269	\$42,000	23%
<i>McCook</i>	87,435	14,540	2,440	19%		<i>8th Circuit</i>				
<i>Miner</i>	4,024	669	747	35%		<i>Butte</i>	\$76,259	\$12,682	\$295	17%
<i>Moody</i>	20,816	3,462	208	18%		<i>Corson</i>	2,290	381	702	47%
<i>Sanborn</i>	1,680	279	0	17%		<i>Dewey</i>	6,547	1,089	1,177	35%
TOTAL	\$320,227	\$53,253	\$13,195	21%		<i>Harding</i>	5,141	855	0	17%
						<i>Lawrence</i>	119,398	19,856	4,930	21%
						<i>Meade</i>	98,450	16,372	14,609	31%
						<i>Perkins</i>	30,056	4,998	1,261	21%
						<i>Ziebach</i>	1,978	329	560	45%
State Totals	\$3,185,623	\$529,765	\$257,489	25%		TOTAL	\$340,119	\$56,562	\$23,534	24%

Table 9. County Expenditures and Repayment for Court-Appointed Attorneys and Public Defenders

COURT-APPOINTMENT CASES AND COSTS

COUNTIES	Paid by County	Appts.	Misd. 1 & Felony	Avg. Pmt.	Appts. / Filings	COUNTIES	Paid by County	Appts.	Misd. 1 & Felony	Avg. Pmt.	Appts. / Filings
1st Circuit						5th Circuit					
Bon Homme	\$14,442	14	68	\$1,032	21%	Brown	\$206,032	219	1,010	\$941	22%
Charles Mix	48,207	92	259	524	36%	Campbell	619	0	9	0	0%
Clay	74,519	52	369	1,433	14%	Day	16,505	45	158	367	28%
Douglas	3,832	2	21	1,916	10%	Edmunds	9,404	6	53	1,567	11%
Hutchinson	24,548	11	55	2,232	20%	Faulk	0	22	97	0	23%
Lincoln	78,915	46	236	1,716	19%	Marshall	11,022	0	4	0	0%
Turner	9,449	11	60	859	18%	McPherson	0	111	331	0	34%
Union	28,349	54	323	525	17%	Roberts	33,122	32	179	1,035	18%
Yankton	82,255	119	651	691	18%	Spink	12,179	1	19	12,179	5%
TOTAL	\$364,516	401	2,042	\$909	20%	Walworth	17,682	23	102	769	23%
2nd Circuit						TOTAL	\$306,565	459	1,962	\$668	23%
Minnehaha	\$547,118	2377	5489	\$230	43%	6th Circuit					
3rd Circuit						Bennett	\$21,784	81	156	\$269	52%
Beadle	\$66,749	87	298	\$767	29%	Gregory	31,563	6	16	5,261	38%
Brookings	53,955	78	505	692	15%	Haakon	5,597	6	22	933	27%
Clark	19,299	11	55	1,754	20%	Hughes	133,235	287	722	464	40%
Codington	120,696	165	504	731	33%	Hyde	1,037	1	8	1,037	13%
Deuel	14,968	27	98	554	28%	Jackson	10,577	24	67	441	36%
Grant	2,947	7	98	421	7%	Jones	161	4	21	40	19%
Hamlin	8,249	10	44	825	23%	Lyman	10,386	20	81	519	25%
Hand	3,884	9	58	432	16%	Mellette	16,157	24	54	673	44%
Kingsbury	16,223	19	44	854	43%	Potter	10,957	9	44	1,217	20%
TOTAL	\$306,970	413	1,704	\$743	24%	Stanley	15,735	49	119	321	41%
4th Circuit						Sully	971	1	16	971	6%
Aurora	\$17,103	10	38	\$1,710	26%	Todd-Tripp	36,776	91	240	404	38%
Brule	28,755	54	161	533	34%	TOTAL	\$294,936	603	1,566	\$489	39%
Buffalo	0	0	2	0	0%	7th Circuit					
Davison	132,793	159	451	835	35%	Custer	\$68,162	67	203	\$1,017	33%
Hanson	6,029	5	19	1,206	26%	Fall River	62,431	87	217	718	40%
Jerauld	4,863	5	21	973	24%	Pennington	574,579	1,616	3,321	356	49%
Lake	16,729	41	184	408	22%	TOTAL	\$705,172	1,770	3,741	\$398	47%
McCook	87,435	27	84	3,238	32%	8th Circuit					
Miner	4,024	7	46	575	15%	Butte	\$76,259	73	207	\$1,045	35%
Moody	20,816	19	173	1,096	11%	Corson	2,290	4	30	573	13%
Sanborn	1,680	4	28	420	14%	Dewey	6,547	6	23	1,091	26%
TOTAL	\$320,227	331	1,207	\$967	27%	Harding	5,141	6	17	857	35%
						Lawrence	119,398	234	796	510	29%
						Meade	98,450	163	663	604	25%
						Perkins	30,056	13	60	2,312	22%
						Ziebach	1,978	2	4	989	50%
State Totals	\$3,185,623	6,855	19,511	\$465	32%	TOTAL	\$340,119	501	1,800	\$679	28%

Table 10. Average Cost per Court Appointment, by County

MILEAGE BY JUDICIAL PERSONNEL

JUDGE OR MAGISTRATE	MILEAGE	JUDGE OR MAGISTRATE	MILEAGE	JUDGE OR MAGISTRATE	MILEAGE
<u>First Circuit:</u>		<u>Fourth Circuit:</u>		<u>Seventh Circuit:</u>	
Humphrey	11,981	Miller	11,324	O'Connor	7,353
Bogue	8,280	Tucker	7,720	Tice	6,258
Kern	7,568	Sage	6,808	Young	2,472
Tapken	6,923	Kiner	3,092	Davis	1,660
Hertz	6,262	Gerken	3,034	Grosshans	1,440
Cody	5,810	McMurchie	2,345	Total	19,183
Marmet	4,404	Total	34,323	<u>Eighth Circuit:</u>	
Total	51,228	<u>Fifth Circuit:</u>		Tschetter	8,722
<u>Second Circuit:</u>		Gilbertson	18,025	Moses	7,639
Amundson	960	Berndt	13,256	Johnson	5,803
Meierhenry	480	Dobberpuhl	10,844	Johns	2,655
Hurd	480	Lovrien	5,974	Ellingson	1,164
Heege	470	Glynn	5,112	Severns	60
Total	2,390	Evans	3,928	Total	26,043
<u>Third Circuit:</u>		Flemmer	1,740		
Brekke	6,647	Olander	1,526		
Bingner	5,520	Total	60,405		
Bradshaw	5,164	<u>Sixth Circuit:</u>			
Erickson	4,722	Heck	9,328		
Steele	4,564	Mc Keever	7,756		
Timm	4,406	Anderson	6,990		
Martin	2,672	Gors	3,172		
Total	33,695	Talbott	2,853		
		Zinter	2,289		
		Total	32,388	State Total	259,655

Table 11. Travel by Judicial Personnel

Travel by Circuit Personnel

Tables 11 and 12, and chart 10, show the miles traveled by certain circuit personnel throughout the state in the performance of their professional duties. Judges and magistrates are listed in Table 11, and court services officers in Table 12. The tables list the two groups by circuit in the order of the miles traveled by each individual, with those showing the highest mileage being at the top in each circuit. The chart shows the totals by circuit for each of the two groups.

Patterns of travel for FY 1991 show that the judges are traveling less and the court-services officers are traveling more. Circuit totals for the judges' travel shows a reduction in all but the seventh circuit, while court-services officers are traveling less only in the third, fifth and seventh circuit.

MILEAGE BY COURT SERVICES PERSONNEL FOR OFFICIAL FUNCTIONS

OFFICER	MILEAGE	OFFICER	MILEAGE	OFFICER	MILEAGE
<u>First Circuit:</u>		<u>Fourth Circuit:</u>		<u>Seventh Circuit:</u>	
Lehr	14,164	Johngson	5,393	Nagel	12,375
Hall	11,713	Fisher	5,188	Wright	6,828
McCabe	7,790	Ibis	5,101	Krosschell	6,073
Nelson	4,381	Adair	4,257	LaPointe	3,466
Foltz	2,444	Fraser	4,185	Jones	2,666
McNeely	1,429	Wilkowski	3,687	Chambers	2,322
Dringman	897	Total	27,811	Osborne	2,253
Total	42,818			Fay	1,567
<u>Second Circuit:</u>		<u>Fifth Circuit:</u>		Hultman	1,051
Bahnson	5,800	Archer	15,245	Thompson	958
Jaqua	2,939	Simons	11,357	Fauss	926
Wildes	2,474	Brumbaugh	8,349	Lilquist	794
LeMair	1,842	Chase	7,380	Raue	753
Anderson	1,619	Rau	459	Monahan	295
Hurtgen	1,520	Hanson	302	Crangle	161
Adler	1,460	Sutherland	157	Total	42,488
Murphy	1,372	Total	43,249		
Grove	390	<u>Sixth Circuit:</u>		<u>Eighth Circuit:</u>	
Sondgeroth	119	Bonenberger	20,611	Portwood	12,692
Total	19,535	Bennett	15,176	Vodopich	3,324
<u>Third Circuit:</u>		Sack	14,744	Meyer	2,246
Goldsmith	7,117	Petersen	7,483	Allard	1,520
Mead	3,429	Parkinson	6,762	DeKraai	966
Danforth	1,366	Olson	3,578	Todd	534
Ramynke	1,261	McTighe	2,216	Total	21,282
Frost	1,138	Total	70,570		
Kjellsen	1,118				
Butler	880				
Moen	875				
Mielke	482				
Total	17,666				
			State Total:	285,419	

Table 12. Travel by Court Services Personnel

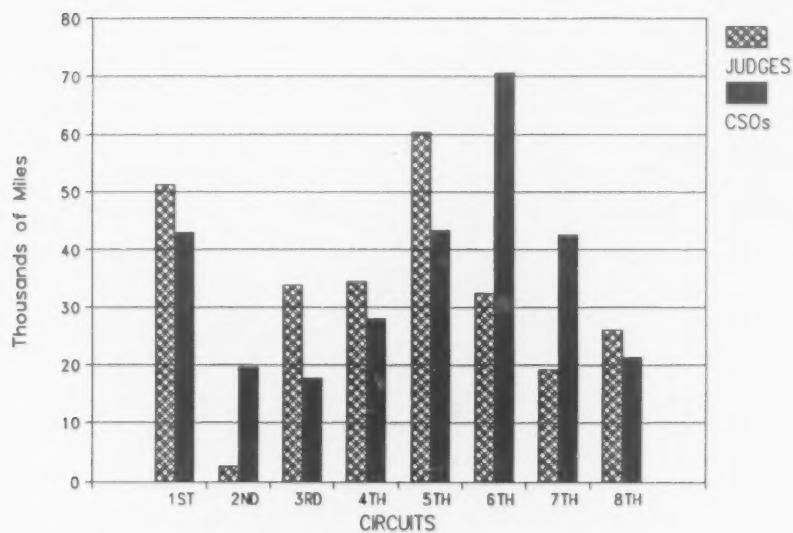


Chart 10. Mileage Comparison by Circuit

CASELOAD DATA

Comparison of Court Services Activities by Fiscal Year

SERVICE CATEGORY	First Circuit	Second Circuit	Third Circuit	Fourth Circuit	Fifth Circuit	Sixth Circuit	Seventh Circuit	Eighth Circuit	State Totals
	fy90 fy91	fy90 fy91	fy90 fy91	fy90 fy91	fy90 fy91	fy90 fy91	fy90 fy91	fy90 fy91	fy90 fy91
<i>Juvenile Service:</i>									
90-Day Diversion Services	492 429	843 969	188 280	155 138	219 226	434 484	118 158	126 109	2575 2793
Prehearing Investigations	140 96	636 687	32 38	136 120	19 13	32 47	204 148	8 1	1207 1150
90-Day Informal Adjustments	11 0	21 25	11 2	7 2	3 0	4 13	21 24	0 0	78 66
Placed on Probation	184 160	232 196	174 230	130 144	176 225	81 93	312 385	211 147	1500 1580
On Probation at End of FY	185 166	170 183	78 96	86 97	107 152	64 69	225 304	186 164	1101 1231
<i>Adult Service, Misdemeanor:</i>									
PSI Reports	88 109	8 17	17 17	70 57	0 2	13 8	1122 949	1 5	1319 1164
Placed on Probation	54 70	11 10	131 151	33 43	191 195	18 13	99 69	40 56	577 607
Active Probationers, End FY	49 71	54 48	112 128	41 58	151 165	20 20	85 77	40 55	552 622
<i>Adult Service, Felony:</i>									
PSI Reports	95 79	358 319	165 160	84 97	47 42	92 81	423 377	87 67	1351 1222
Placed on Probation	76 65	252 231	95 103	53 62	130 123	72 55	233 241	99 80	1010 960
Active Probationers, End FY	144 159	498 585	148 179	84 104	220 215	146 125	362 391	147 153	1749 1911
<i>90-Day Case Monitoring Program:</i>									
Placed in Programs	71 66	430 622	345 373	52 42	35 21	258 253	1143 957	1 0	2335 2334
Active Cases, End FY	14 13	55 181	19 81	10 9	2 0	53 17	249 146	0 0	402 447
<i>Domestic Relations Cases:</i>									
Divorce Custody Investigations	8 4	0 0	0 0	1 0	1 0	1 0	0 0	0 0	11 4
Custody Visitation Monitoring	0 0	0 0	0 0	0 2	0 0	0 3	0 0	0 0	0 5
Adoption Investigations	0 0	0 0	0 0	0 0	1 0	0 0	0 0	0 0	1 0
Divorce Custody Mediations	0 0	0 0	0 0	0 0	0 0	2 1	13 2	1 1	16 4
<i>Interstate Compact Caseload:</i>									
Placed on Probation - Out	7 18	10 18	5 15	6 13	9 19	4 17	10 10	23 14	74 124
Placed on Probation - In	14 9	8 11	5 16	6 5	5 11	5 13	28 34	9 5	.80 104
Active Probationers In, End FY	17 15	31 28	1 20	10 11	10 23	6 13	39 42	15 8	129 160

Table 13. Comparison of Court Services Activities by Fiscal Year

Table 14. Civil Caseload By County, Fiscal Year 1991

	CIVIL ACTIONS							DIVORCE				SMALL CLAIMS			MISCELLANEOUS						
	Filings	Other	Adm.														Mental	Guar-	Ter-		
	Under	Fil-	Ap-	Hear-	Trials	De-	Fil-	Hear-	Tri-	De-	Fil-		De-	Pro-	Adop-	Ill-	dian-	mina-	Juvenile		
COUNTIES	\$2,000	ings	peal	ings	Crt.	Jury	fault	ings	ings	als	fault	ings	Trials	fault	bate	tion	ness	ships	tions	Petitions	
1st Circuit																					
Bon Homme	24	26	0	25	3	0	14	33	6	2	13	179	17	162	60	3	4	4	4	22	
Charles Mix	42	40	2	1	2	1	55	19	7	4	9	352	20	286	70	1	5	8	0	77	
Clay	37	87	0	0	1	1	96	61	0	2	42	479	34	419	53	6	9	16	2	35	
Douglas	0	21	0	0	0	0	9	8	0	0	4	127	0	109	127	3	0	1	0	4	
Hutchinson	13	37	0	4	1	1	20	20	0	1	9	119	15	104	83	5	3	8	0	18	
Lincoln	54	78	1	14	2	1	80	49	8	6	35	71	12	177	74	6	1	10	0	45	
Turner	29	50	2	4	2	2	55	19	0	2	14	136	17	109	71	1	1	11	0	12	
Union	72	89	2	102	22	1	83	42	23	10	42	228	24	142	76	7	11	8	1	26	
Yankton	35	279	2	76	37	4	101	115	35	26	35	1115	73	801	114	10	197	17	2	71	
TOTAL	306	707	9	226	70	11	513	366	79	53	203	2806	212	2309	728	42	231	83	9	310	
2nd Circuit	1496	1401	12	800	95	31	2650	992	640	90	764	3437	464	2729	453	75	270	143	57	1509	
3rd Circuit																					
Beadle	39	258	0	73	67	2	255	104	58	22	36	558	83	647	117	12	7	24	2	109	
Brookings	86	161	4	96	60	4	284	113	30	9	132	999	87	920	133	10	12	14	1	168	
Clark	5	21	0	5	4	0	20	16	3	7	11	100	9	89	29	2	1	9	0	13	
Codington	56	189	2	29	12	8	349	126	13	12	132	709	66	922	115	17	13	30	0	143	
Deuel	15	31	1	0	4	3	39	14	0	1	8	93	10	82	40	3	0	2	1	15	
Grant	18	44	0	13	1	0	72	25	23	0	14	271	24	240	64	4	0	4	1	23	
Hamlin	7	25	0	4	2	0	35	11	1	2	4	140	10	135	65	5	0	7	0	5	
Hand	9	29	0	3	1	1	39	14	1	3	8	85	4	73	25	6	1	5	1	23	
Kingsbury	5	38	1	8	3	3	74	16	2	1	3	100	11	124	67	1	1	9	0	12	
TOTAL	240	796	8	231	154	21	1167	439	131	57	348	3055	304	3232	655	60	35	104	6	511	
4th Circuit																					
Aurora	10	13	0	12	2	0	16	8	6	0	6	59	8	53	31	0	1	4	0	11	
Brule	8	78	0	26	0	0	35	15	3	14	4	163	38	123	31	4	5	14	3	59	
Buffalo	0	4	0	1	0	0	0	0	0	0	0	7	1	6	9	0	0	1	0	0	
Davison	145	167	8	56	12	1	149	87	51	19	25	792	69	543	103	10	8	22	7	142	
Hanson	14	0	0	1	0	0	0	6	4	0	0	36	0	15	27	0	0	0	0	17	
Jerauld	6	13	1	1	1	0	9	4	1	0	0	78	4	78	17	1	0	1	0	6	
Lake	27	74	17	56	5	0	36	39	27	4	0	389	34	293	74	6	18	21	4	53	
McCook	21	29	0	9	0	1	22	8	0	0	7	132	14	114	37	2	2	2	0	8	
Miner	19	20	0	13	0	0	10	6	9	0	0	79	14	71	37	0	1	7	1	7	
Moody	39	76	0	23	4	2	54	32	2	5	14	257	24	118	51	0	0	4	75	0	
Sanborn	6	11	2	1	2	2	14	7	0	1	5	60	4	54	25	0	1	1	0	1	
TOTAL	295	485	28	199	26	6	345	212	103	43	61	2052	210	1468	442	23	36	77	90	304	

Table 14. Civil Caseload By County, Fiscal Year 1991

COUNTIES	CIVIL ACTIONS						DIVORCE				SMALL CLAIMS			MISCELLANEOUS						
	Filings	Other	Adm.	Hear-ings	Trials		De-fault	Fil-ings	Hear-ings	Tri-als	De-fault	Fil-ings	Trials	De-fault	Pro-bate	Adop-tion	Ill-ness	Guar-dian-ships	Ter-mina-tions	Juvenile Petitions
	Under \$2,000	Fil-ings	Ap-peal		Crt.	Jury														
5th Circuit																				
Brown	190	538	19	69	27	3	503	265	109	24	81	1305	137	1237	203	24	13	50	21	226
Campbell	5	12	0	0	0	0	40	3	0	0	3	16	1	34	22	0	0	2	1	3
Day	45	55	0	10	0	1	87	20	1	1	13	189	13	163	59	3	0	8	0	67
Edmunds	7	31	2	1	0	1	20	9	1	0	8	36	0	32	35	3	0	6	0	6
Faulk	3	14	1	0	0	0	30	7	7	3	0	51	1	47	34	0	0	5	1	0
Marshall	0	44	4	10	3	1	18	18	2	1	9	161	10	155	49	3	0	1	0	12
McPherson	10	8	2	0	1	0	29	5	4	0	1	28	3	32	28	0	0	2	0	2
Roberts	29	53	1	2	6	0	41	48	3	3	23	153	20	102	85	1	1	9	2	79
Spink	52	40	0	22	4	0	25	25	23	7	20	187	21	168	88	13	5	50	10	38
Walworth	24	59	0	0	0	1	73	24	0	0	14	125	17	108	62	5	1	1	2	84
TOTAL	365	854	29	114	41	7	866	424	150	39	172	2251	223	2078	665	52	20	134	37	517
6th Circuit																				
Bennett	0	45	3	5	2	0	17	10	1	0	4	301	5	225	17	0	0	0	0	26
Gregory	4	52	8	6	0	0	82	17	2	1	11	150	15	114	38	1	2	8	0	16
Hakon	5	9	1	7	0	0	12	6	6	0	3	139	4	115	18	0	1	2	0	6
Hughes	67	343	43	105	35	4	338	94	26	3	42	404	62	348	56	6	16	18	1	94
Hyde	6	11	0	0	0	1	13	6	0	1	2	72	1	49	13	0	1	1	0	1
Jackson	11	4	1	0	0	0	17	8	0	0	3	25	4	19	12	0	0	0	0	1
Jones	4	13	0	1	1	0	11	2	0	0	3	20	3	21	12	0	0	0	0	2
Lyman	19	41	9	1	2	0	8	8	2	0	3	47	4	39	24	0	3	3	0	3
Mellette	14	8	0	0	0	0	6	1	1	0	2	14	0	12	15	2	2	10	0	2
Potter	5	27	1	2	1	0	17	6	1	0	5	54	4	52	27	2	0	0	1	4
Stanley	21	49	3	6	6	0	116	22	4	0	19	93	13	120	15	2	0	7	2	3
Sully	4	10	0	0	0	0	16	5	0	0	1	43	0	44	10	0	0	0	1	1
Todd-Tripp	37	98	2	27	5	3	131	39	13	2	18	287	19	252	35	4	8	8	0	47
TOTAL	197	710	71	160	53	8	784	224	56	7	116	1649	134	1410	292	17	33	57	5	206
7th Circuit																				
Custer	22	65	1	32	3	2	62	64	0	2	33	244	24	210	45	6	11	7	2	54
Fall River	0	114	2	18	8	3	69	33	3	0	30	191	19	142	64	3	10	9	2	46
Pennington	338	1423	21	273	39	23	107	675	253	63	133	4448	491	3136	305	63	126	96	114	539
TOTAL	360	1602	24	323	50	28	238	772	256	65	196	4883	534	3488	414	72	147	112	118	639
8th Circuit																				
Butte	56	71	1	92	3	2	132	43	8	2	40	212	17	152	52	5	12	5	0	57
Corson	3	16	1	1	1	0	14	4	0	0	7	10	3	5	14	2	0	0	0	10
Dewey	7	12	2	2	0	0	6	11	0	0	5	24	0	27	12	0	0	0	0	7
Harding	2	6	0	0	0	0	2	6	0	0	4	23	2	17	21	0	0	4	0	6
Lawrence	73	358	13	186	17	8	291	125	66	21	63	866	126	831	97	8	15	11	3	78
Meade	50	252	2	54	27	7	180	137	48	10	104	336	39	262	217	14	35	20	1	93
Perkins	22	25	0	4	0	0	13	20	8	6	24	85	8	75	57	7	4	5	0	13
Ziebach	0	5	0	0	0	0	4	1	0	0	0	12	7	5	6	1	0	0	0	0
TOTAL	213	745	19	339	48	17	642	347	130	39	247	1568	202	1377	476	37	66	45	4	264
State Totals	3472	7300	200	2392	537	129	7205	3776	1545	393	2107	21701	2283	18091	4125	378	838	755	326	4260

Table 15. Criminal Caseload By County, Fiscal Year 1991

		CLASS TWO MISDEMEANOR					CLASS ONE MISDEMEANOR					FELONY						
	Petty Ofense Filings	Fil- ings	Guilty Pleas	Dis- mis- sals	Tri- als	Fil- ings	Pre- lim. Hrgs.	Guilty Pleas	Dis- mis- sals	<u>Trials</u> Crt. Jury		Fil- ings	Pre- lim. Hrgs.	Guilty Pleas	Dis- mis- sals	<u>Trials</u> Crt. Jury		
COUNTIES																		
<u>1st Circuit</u>																		
Bon Homme	4	872	823	13	9	54	12	47	4	1	1	18	5	4	6	0	1	
Charles Mix	3	1097	1049	19	6	192	24	132	26	0	1	73	42	25	13	0	3	
Clay	10	2956	2755	137	28	322	31	248	23	0	1	86	20	34	15	0	5	
Douglas	2	557	553	8	1	16	2	13	2	0	0	3	0	2	2	0	0	
Hutchinson	3	814	752	11	19	37	1	36	4	1	0	15	4	12	2	0	2	
Lincoln	11	2709	2458	196	31	186	30	127	46	2	2	40	9	6	21	0	2	
Turner	5	716	657	17	0	54	9	49	2	0	1	13	1	3	2	0	0	
Union	21	8795	7968	189	25	293	49	247	18	2	1	102	25	14	12	0	2	
Yankton	46	5315	4623	340	86	544	94	405	49	2	6	253	32	36	76	0	3	
TOTAL	105	23831	21638	930	205	1698	252	1304	174	8	13	603	138	136	149	0	18	
<u>2nd Circuit</u>																		
Minnehaha	927	38040	28050	8106	1084	4473	438	2876	854	9	35	1245	76	416	467	6	21	
<u>3rd Circuit</u>																		
Beadle	23	3470	3198	159	44	244	73	167	38	6	4	50	13	33	14	0	6	
Brookings	10	3360	3146	176	81	345	42	330	54	1	1	100	22	69	21	1	3	
Clark	4	622	566	39	9	52	18	40	4	0	0	12	0	3	6	0	1	
Codington	14	3711	3214	475	42	342	48	327	62	4	0	103	25	53	20	0	2	
Deuel	1	631	634	33	2	57	4	51	12	0	0	26	5	14	18	0	0	
Grant	7	981	895	15	14	86	13	80	5	0	2	11	4	4	5	0	0	
Hamlin	0	548	498	13	5	36	3	33	4	1	1	12	0	4	2	0	0	
Hand	1	414	378	48	3	22	4	16	15	0	0	21	0	1	18	0	0	
Kingsbury	2	675	638	8	3	31	3	19	4	0	3	8	1	12	0	0	0	
TOTAL	62	14412	13167	966	203	1215	208	1063	198	12	11	343	70	193	104	1	12	
<u>4th Circuit</u>																		
Aurora	0	486	453	5	2	25	3	17	4	0	0	17	2	7	4	0	0	
Brule	10	998	938	39	8	113	21	91	21	0	0	49	9	17	23	0	0	
Buffalo	0	28	28	0	0	1	0	1	1	0	0	0	0	0	0	0	0	
Davison	15	3687	3046	373	33	330	41	216	77	1	4	155	14	54	45	0	2	
Hanson	2	370	365	1	0	9	1	10	2	0	0	7	0	6	0	0	0	
Jerauld	0	286	288	10	0	17	4	15	1	0	0	0	0	1	0	0	0	
Lake	7	1682	1525	113	32	151	22	103	19	2	2	52	5	19	12	1	1	
McCook	0	747	725	31	7	59	17	34	12	1	0	27	2	3	17	0	3	
Miner	0	435	424	16	6	35	14	33	4	1	0	6	2	3	2	0	0	
Moody	8	2905	2591	129	3	174	23	127	11	0	3	55	9	20	4	0	0	
Sanborn	0	344	340	15	2	12	1	14	4	0	0	11	0	2	5	1	0	
TOTAL	42	11968	10723	732	93	926	147	661	156	5	9	379	43	132	112	2	6	

Table 15. Criminal Caseload By County, Fiscal Year 1991

COUNTIES	Petty Offense Filings	CLASS TWO MISDEMEANOR				CLASS ONE MISDEMEANOR						FELONY					
		Fil- ings	Guilty Pleas	Dis- mis- sals	Tri- als	Fil- ings	Pre- lim. Hrgs.	Guilty Pleas	Dis- mis- sals	Trials		Fil- ings	Pre- lim. Hrgs.	Guilty Pleas	Dis- mis- sals	Trials	
										Crt.	Jury					Crt.	Jury
5th Circuit																	
Brown	73	6241	5563	655	30	808	55	578	124	3	1	211	16	108	76	0	2
Campbell	0	152	150	1	0	4	1	4	0	0	0	4	1	0	3	0	1
Day	9	876	802	43	1	132	2	98	22	0	0	35	0	20	10	0	0
Edmunds	4	509	509	17	5	44	1	39	7	0	0	7	1	3	1	0	1
Faulk	5	265	255	11	17	19	7	15	2	10	0	3	1	1	0	0	0
Marshall	5	564	521	64	0	67	2	59	13	0	0	17	2	10	11	0	0
McPherson	0	63	60	0	0	4	0	2	1	0	0	2	0	0	0	0	0
Roberts	11	2336	2160	152	4	261	10	218	35	0	0	85	5	45	25	0	0
Spink	1	1160	1183	2	14	66	5	64	7	0	1	22	6	19	7	0	0
Walworth	2	1725	1642	57	13	142	10	123	12	0	1	50	7	13	12	0	0
TOTAL	110	13891	12845	1002	84	1547	93	1200	223	13	3	436	39	219	145	0	4
6th Circuit																	
Bennett	2	726	611	36	6	142	11	76	15	0	0	34	4	13	8	0	0
Gregory	3	436	418	69	1	7	3	7	4	0	0	0	0	0	2	0	0
Haakon	5	355	352	4	0	20	7	15	4	0	0	2	0	2	0	0	0
Hughes	181	3876	3201	476	84	618	47	400	58	4	4	144	18	48	16	1	4
Hyde	2	319	297	8	0	9	2	5	1	0	1	1	1	0	0	0	0
Jackson	21	1866	1675	31	4	60	5	35	7	2	1	16	9	7	4	0	3
Jones	16	523	497	2	3	22	3	12	2	0	1	3	0	2	2	0	0
Lyman	8	1651	1485	23	13	83	10	64	5	0	2	14	3	5	4	0	0
Mellette	2	152	134	4	1	42	11	26	13	1	1	7	3	3	6	0	1
Potter	0	421	422	11	0	32	3	22	6	0	1	10	2	7	1	0	1
Stanley	6	960	894	66	18	99	7	76	11	0	0	20	2	4	7	0	0
Sully	1	218	213	5	0	11	5	9	1	1	0	3	0	0	4	0	0
Todd-Tripp	13	1081	989	169	18	155	33	132	31	1	0	60	21	32	31	1	0
TOTAL	260	12584	11188	904	148	1300	147	879	158	9	11	314	63	123	85	2	9
7th Circuit																	
Custer	5	1476	1384	78	15	152	15	101	36	0	0	53	4	11	15	0	1
Fall River	1	1296	1069	163	34	160	43	126	17	0	2	60	15	25	9	0	0
Pennington	407	17465	14663	2910	519	2645	587	1571	546	16	12	499	334	285	74	8	17
TOTAL	413	20237	17116	3151	568	2957	645	1798	599	16	14	612	353	321	98	8	18
8th Circuit																	
Butte	5	1154	968	137	17	162	2	119	29	0	0	78	7	23	18	0	2
Corson	1	194	184	7	1	26	3	24	2	0	0	7	1	1	0	0	0
Dewey	1	224	201	1	0	13	3	13	1	0	0	9	2	5	3	1	0
Harding	1	219	222	3	0	10	7	9	1	0	0	8	2	0	3	0	0
Lawrence	42	4279	3781	283	60	685	6	467	72	6	3	178	2	78	36	1	7
Meade	165	5519	5000	400	70	553	62	402	88	0	4	122	31	49	44	0	2
Perkins	2	390	365	5	0	49	3	41	5	0	0	15	4	8	2	0	3
Ziebach	1	47	47	0	1	3	0	2	2	0	0	1	0	0	0	0	0
TOTAL	218	12026	10768	836	149	1501	86	1077	200	6	7	418	49	164	106	2	14
State Totals																	
	2137	146989	125495	16627	2534	15617	2016	10858	2562	78	103	4350	831	1704	1266	21	102

CIVIL FILINGS AND DISPOSITIONS BY FISCAL YEAR

CIVIL ACTION CATEGORY	FY 1987	FY 1988	FY 1989	FY 1990	FY 1991
CIVIL Filings	12,027	11,201	10,547	10,753	10,957
Defaults	8,886	7,934	7,771	7,943	7,193
Trials & Disp. Hearings	2,643	2,703	2,716	2,947	2,779
DIVORCE Filings	3,206	3,448	3,373	3,659	3,770
Defaults	2,329	2,136	2,176	2,462	2,104
Trials and Hearings*	1,709	2,293	2,254	2,077	1,932
Granted (Calendar Yr.)	2,696	2,649	2,625	2,651	N/A
SMALL CLAIMS Filings	19,349	19,200	19,640	19,767	21,573
Defaults	16,885	16,381	17,328	15,698	18,491
Contested	2,623	2,475	2,491	2,438	2,279
MISCELLANEOUS Filings	9,325	9,351	9,970	10,166	10,313
Probate	4,190	4,169	4,189	4,000	4,080
Adoption	398	418	398	433	405
Mental Illness	820	836	879	971	837
Guardianship	719	672	737	708	753
Juvenile Petitions	3,198	3,256	3,767	4,054	4,238

* May include related hearings (child support, property, etc.).

Table 16. Civil Caseload Summary

Civil Caseload

Table 16 shows the caseload comparison for the various types of civil (that is, all non-criminal) cases during the past five fiscal years. In the first three major categories (civil contests, divorces, and small claims), filings and dispositions are reported and shown. In the miscellaneous categories, only filings are reported.

Under DIVORCE filings, the number of divorces and separations granted is provided by the Office of Vital Statistics, where the data are compiled on a calendar year basis and are less current than the fiscal year data.

The juvenile petitions reported under the miscellaneous heading are those that are filed and compiled through the

offices of the clerks of court. There is, in addition to this, a separate computerized reporting system for juvenile filings which is processed through the court services offices.

Defaults include cases settled or dismissed without a disposition hearing. If there is a hearing, the case is reported as such.

Chart 11, which illustrates total filings for all civil actions, shows that all these categories increased during FY 1991, with small claims filings showing the greatest rate of increase.

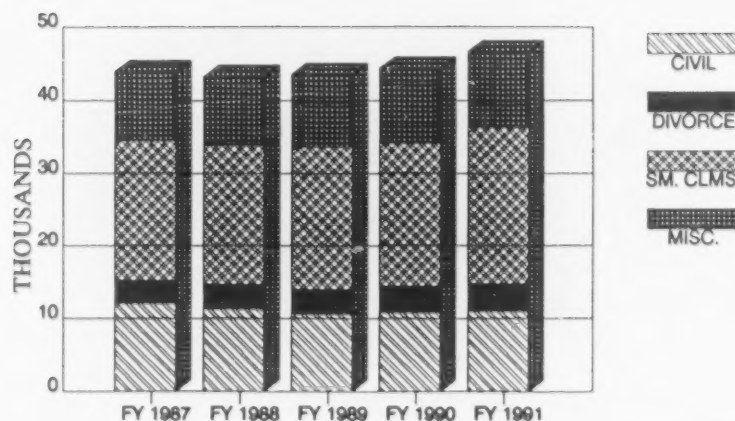


Chart 11. Civil Filings: Civil Actions, Divorce, Small Claims, Miscellaneous

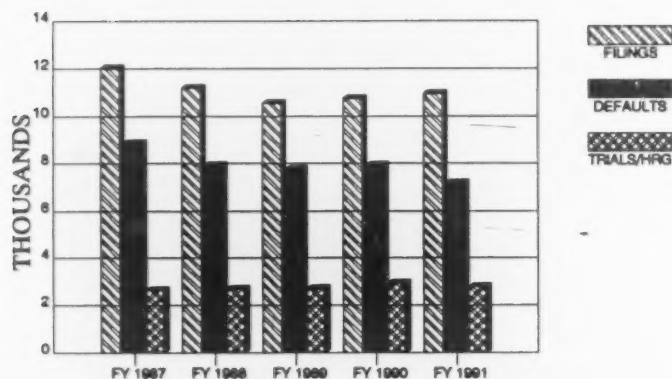


Chart 12. Civil Action Filings and Dispositions

Civil Actions

The number of civil lawsuit filings and default dispositions, as shown in Chart 12, increased slightly in 1990, and filings have continued to increase in 1991. Defaults, after the slight rise in 1990, have continued the gradual decline that has been evident over the previous five years.

Trials and dispositions by hearing--that is, contested cases--have shown a continued increase over the same period until 1991, which shows a slight drop from the previous year. The previous trend, which indicated that filings were decreasing while greater numbers of cases were

being contested, is now showing a change. It is too early to tell at this point whether a new pattern is developing.

The number of small claims filings and dispositions (not included in the general civil contests, above) is shown in Chart 13. Filings have been increasing over the past three years, and both filings and defaults show a substantial rise during FY 1991. Contested small claims, by contrast, are continuing a downward trend that has been evident since 1986.

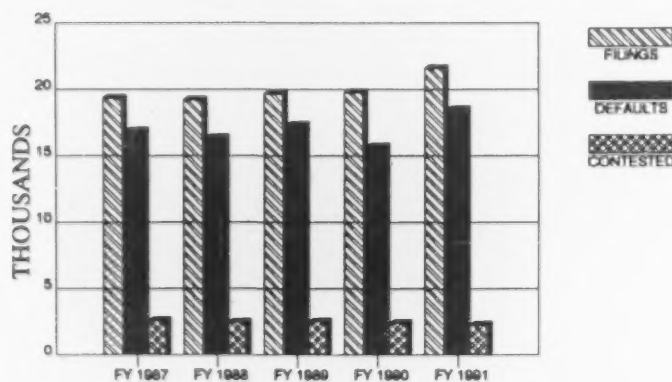


Chart 13. Small Claims Actions

Filings and dispositions in divorce, annulment, and separation cases, presented in chart 14, show somewhat mixed indicators. Up until FY 1988, there was a gradual increase in filings and contested dispositions, and a continuing decline in defaults (uncontested actions). This indicates that the workload for the courts was increasing in the area of divorce hearings during this time. Since 1988, filings continue to increase, defaults have declined to a six-year low, and contested cases are showing a clear downward trend.

Divorce data, which are not included in the number of general civil lawsuits shown in Chart 12, include hearings on requests to modify child custody. These are reported as new filings if there has been no related divorce case previously filed.

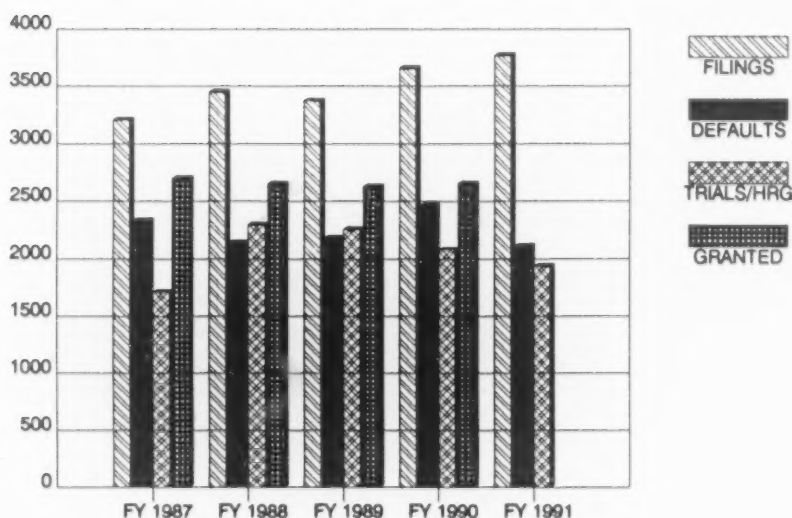


Chart 14. Marriage Dissolution Filings and Dispositions

CRIMINAL CASELOAD SUMMARY

CRIMINAL ACTION CATEGORY	FY 1987	FY 1988	FY 1989	FY 1990	FY 1991
CLASS-TWO MISDEMEANOR					
Filings	157,624	154,652	160,068	158,801	146,989
Guilty Pleas	141,514	129,843	132,957	122,807	125,495
Dismissals	12,611	19,333	19,846	16,549	16,627
Trials	2,051	2,041	2,269	2,285	2,534
Suspended Impositions	530	386	334	N/A	387
Speeding Offenses	87,890	72,208	70,085	70,321	65,487
CLASS-ONE MISDEMEANOR					
Filings	14,292	12,986	13,528	13,333	15,617
Preliminary Hearings	2,836	2,553	2,452	2,215	2,016
Guilty Pleas	11,174	9,798	10,217	9,386	10,858
Dismissals	3,030	2,994	2,746	2,461	2,562
Trials	271	238	234	283	181
Suspended Impositions	698	461	435	N/A	478
DUI Offenses	9,598	8,153	7,119	6,910	7,616
FELONY					
Filings	3,907	3,884	3,967	4,661	4,350
Preliminary Hearings	936	1,055	954	989	831
Guilty Pleas	1,661	1,773	1,533	1,740	1,704
Dismissals	1,326	1,293	1,371	1,380	1,266
Trials	174	168	148	182	123
Suspended Impositions	499	521	537	N/A	510

Table 17. Criminal Caseload Summary

Criminal Caseload

Table 17 shows filings, and the most common dispositions, of criminal cases during the past five fiscal years. petty offenses, which are technically civil cases, are not included in the main category of class-two misdemeanor filings. Speeding violations (filings) are shown separately, but are included in all the preceding totals for class-two misdemeanors. While total class-two filings have remained fairly stable (until the 1991 decrease), speeding offenses have decreased by about 25% over the five-year period shown on the table.

Class-two misdemeanors include most traffic offenses. Other (non-traffic) offenses in this category include disorderly conduct and bad check offenses involving \$100 or

less. A summary of traffic offenses and fines is presented in the table on page 52.

In the same manner as speeding offense statistics, the numbers of DUI filings shown in the table above are included in the filing and dispositional information for class-one misdemeanors. DUI violations here include both first and second time offenders as charged by the state's attorney. Third and subsequent DUI offense are felonies. (Table 18 contains complete DUI data).

Selected information from the table above, comparing data for the period of five fiscal years, is shown on the following charts.

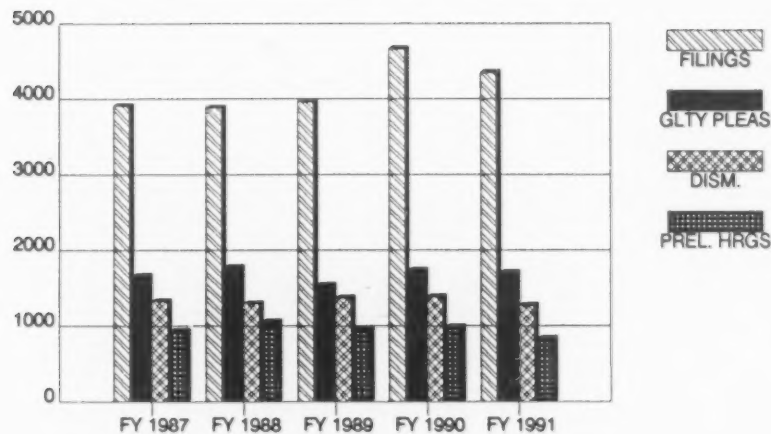


Chart 15. Felony Caseload

Felony Cases

Felony filings decreased in FY 1991 after two years of significant increase. Other categories of data, preliminary hearings and case dispositions, show a parallel trend. The number of felony trials has declined to a six-year low. Because of statistical peculiarities, a number of felony filings reported in the system may be duplicated, so the overall number may show as much as a 10% distortion.

The comparison of trials for felony and class-one misdemeanor cases shown in Chart 16 indicates that both the felony and class-one case trials increased substantially in FY 1990 to the highest point in the five-year period previous. After that increase, the trial figures for both types of trial have declined to a six-year low.

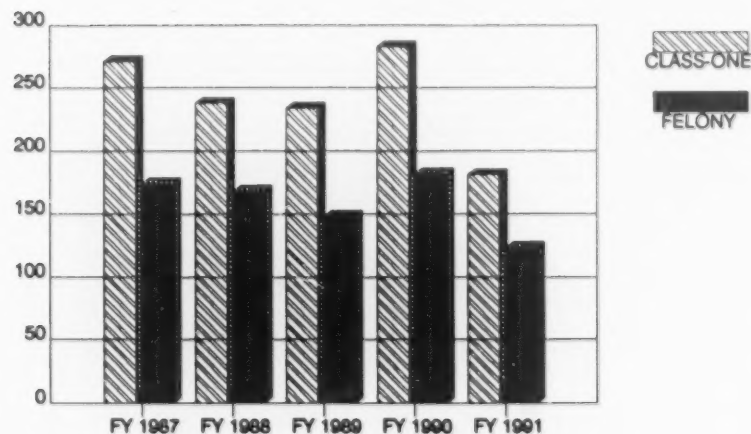


Chart 16. Felony and Class-One Misdemeanor Trials

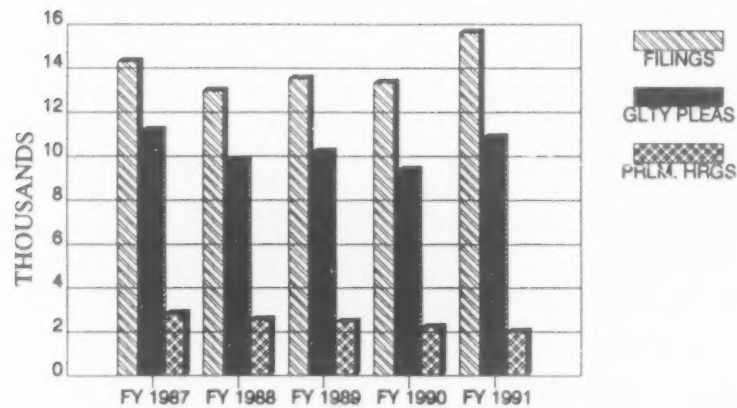


Chart 17. Class-One Misdemeanor Caseload

Chart 17 shows that there has been a slight decrease in filings, and a general decrease in guilty pleas and preliminary hearings for the time period covered, until this year. In FY 1991, filings and guilty pleas have increased noticeably while the number of preliminary hearings continues to decline.

Chart 18 shows the comparison of class-one misdemeanor filings with class-one DUI filings. DUI filings have been in a steady decline from 1987 to 1990, after several years of increase. In 1991, however, DUI offense filings show a

small increase, in conjunction with a larger increase in total class-one misdemeanor filings. The result of this is that DUI arrests represent a smaller portion of total class-one offenses than in years past. In 1987, for example, DUI offenses accounted for 67% of class-one misdemeanor filings; This year, DUI class-one violations represent only 51% of the total. This is the smallest percent ratio of the five-year period shown.

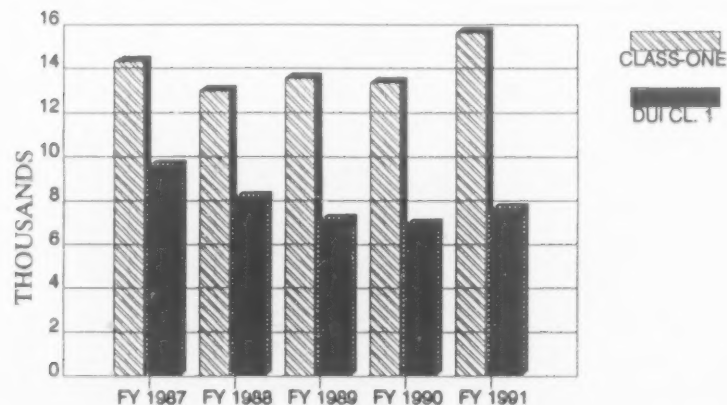


Chart 18. Class-One Misdemeanor and DUI Filings

DUI VIOLATIONS SUMMARY

	FY 1987	FY 1988	FY 1989	FY 1990	FY 1991
FILINGS					
DUI One	7971	6768	5918	5973	6525
DUI Two	1627	1385	1201	937	1091
DUI Three	632	627	579	589	675
TOTAL	10230	8780	7698	7499	8291
GUILTY PLEAS					
DUI One	5268	4490	4123	4539	4864
DUI Two	927	741	664	746	773
DUI Three	206	203	218	346	396
TOTAL	6401	5434	5005	5631	6033
DISMISSALS					
DUI One	2052	1863	1384	1561	1535
DUI Two	577	523	470	219	247
DUI Three	205	206	188	208	235
TOTAL	2834	2592	2042	1988	2017
SUSPENDED IMPOSITION					
DUI One	430	183	217	256	277
DUI Two	48	47	20	22	22
DUI Three	46	64	47	40	51
TOTAL	524	294	284	318	350
CONVICTIONS AT TRIAL					
DUI One	117	105	113	71	50
DUI Two	47	37	23	25	19
DUI Three	25	24	15	19	13
TOTAL	189	166	151	115	82
ACQUITTALS AT TRIAL					
DUI One	52	30	30	31	17
DUI Two	14	13	9	11	9
DUI Three	17	10	7	4	2
TOTAL	83	53	46	46	28

Table 18. DUI Violations Summary

DUI Caseload

The majority of class-one misdemeanor cases are violations of SDCL chapter 32-23, referred to as DUI (driving under the influence). Those filings, and the most common dispositions of those filings, for fiscal years 1987 through 1991, are shown on Table 18. Selected segments of the data on that table are shown in the comparative bar charts that follow.

In the table, first and second offense DUI violations (DUI one and DUI two) are class-one misdemeanors, third and subsequent offenses (DUI three) are felonies.

Examination of the information on Table 18 shows that the total filings for all DUI offenses increased during FY 1991 and that the increase was spread across all categories of DUI offense. First and third offense DUI filings have

been increasing for the past three years while second-offense DUI filings declined in 1990.

Following the sharp decline in 1988 of suspended impositions of sentence (discussed on page 46), this type of disposition for first offense DUI has increased in 1989 by about 16%, and again in 1990 and 1991. Suspended impositions of sentence for second and third-offense DUI have remained fairly stable, so that the total for the category shows an overall increase for the past 2 years.

Charts 19 and 20 present a graphic summary of total DUI offenses for FY 1987 through FY 1991. In Chart 19, filings show an increase after the low point reached in 1990, and guilty pleas show a continuing two-year increase. Dismissals have been stable over the past three years.

Of the total number of DUI dismissals shown for FY 1989, many are the result of negotiations for the defendant to plead guilty to a lesser charge (usually reckless driving, which is also a class-one misdemeanor). This happens if the prosecutor believes that the state's evidence may not be adequate for a DUI conviction and he is willing to save the state the expense of a more time-consuming prosecution in return for the defendant's guilty plea to the lesser charge.

Conviction for more than one reckless driving violation within a one-year period will result in suspension of the violator's driving license for a minimum of thirty days.

Table 19 presents DUI filings and dispositions for FY 1991 by county and circuit. Filings increased state wide for the year, but decreased in the third circuit. The table shows that the ratio of dismissals to filings for DUI cases state wide is about 25%, or about one out of four. These ratios are the lowest in the third (18%), fourth (17%), and fifth (17%) circuits. Although total suspended impositions of sentence for DUI offenses increased state-wide in FY 1991, they decreased in the third, fourth and eighth circuits. The eighth circuit has the highest ratio of suspended impositions of sentence to filings (16%).

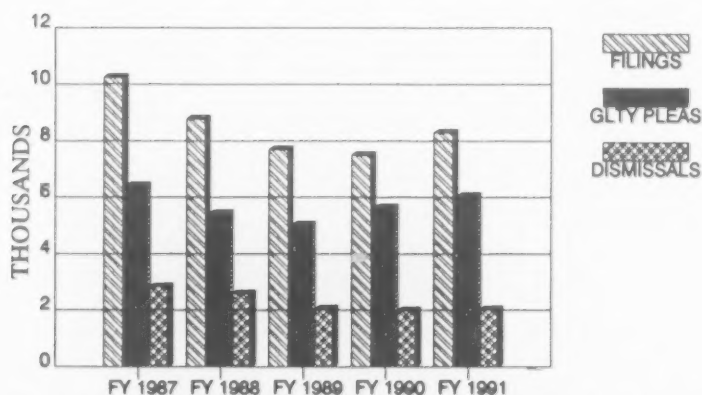


Chart 19. DUI Violations Summary, Filings, Guilty Pleas, and Dismissals

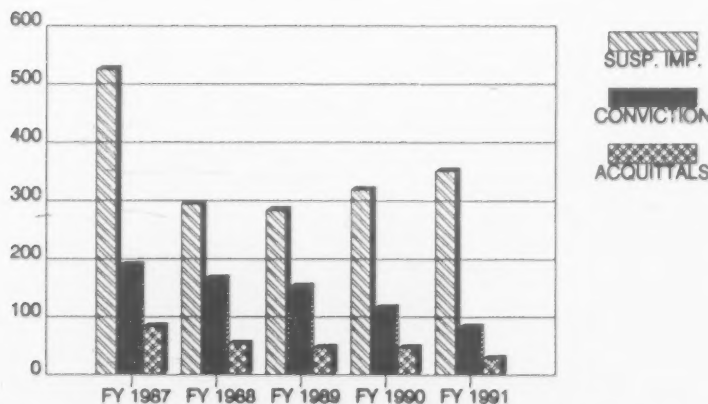


Chart 20. DUI Violations Summary, Suspended Impositions of Sentence and Trials

DUI DISPOSITIONS BY COUNTY AND CIRCUIT

COUNTIES	Total	Gtly Pleas	Dis-mis-sals	Trials		Susp. Imp.*	COUNTIES	Total	Gtly Pleas	Dis-mis-sals	Trials		Susp. Imp.*
				Ac-quit	Con-vict						Ac-quit	Con-vict	
1st Circuit							5th Circuit						
Bon Homme	35	31	6	0	1	0	Brown	455	338	118	1	0	21
Charles Mix	61	52	15	0	0	5	Campbell	1	3	0	0	0	0
Clay	138	112	14	0	0	8	Day	68	57	6	0	0	2
Douglas	7	5	1	0	0	1	Edmunds	15	13	1	0	0	3
Hutchinson	19	16	4	0	0	2	Faulk	12	3	4	0	3	1
Lincoln	110	62	55	0	3	0	Marshall	57	42	15	0	0	1
Turner	33	18	8	0	1	0	McPherson	0	0	0	0	0	0
Union	200	134	39	0	0	11	Roberts	147	146	5	0	0	1
Yankton	287	235	43	2	4	5	Spink	44	39	7	0	0	3
TOTAL	890	665	185	2	9	32	Walworth	99	86	5	0	2	3
2nd Circuit							TOTAL	898	727	161	1	5	35
Minnehaha	2339	1640	728	11	20	15	6th Circuit						
3rd Circuit							Bennett	91	70	11	0	0	2
Beadle	130	97	29	2	2	0	Gregory	7	7	0	0	0	0
Brookings	193	193	21	0	5	1	Haakon	8	5	2	0	0	1
Clark	25	13	8	0	0	0	Hughes	317	263	65	0	2	10
Codington	131	123	34	0	0	3	Hyde	4	1	2	0	1	0
Deuel	22	24	4	0	0	0	Jackson	37	23	4	1	3	2
Grant	42	39	3	0	1	0	Jones	11	7	1	1	0	1
Hamlin	17	16	3	0	1	0	Lyman	49	35	3	0	2	1
Hand	16	7	7	0	0	0	Mellette	29	21	2	1	2	0
Kingsbury	12	11	2	0	3	0	Potter	13	11	7	0	0	0
TOTAL	588	523	111	2	12	4	Stanley	48	23	24	0	0	0
4th Circuit							Sully	5	4	1	0	1	0
Aurora	9	9	2	0	0	0	Todd	11	9	1	0	0	0
Brule	69	53	16	1	0	0	Tripp	79	61	30	0	1	0
Buffalo	0	1	0	0	0	0	TOTAL	709	540	153	3	12	17
Davison	136	110	22	1	2	1	7th Circuit						
Hanson	7	7	2	0	0	1	Custer	100	53	45	0	0	8
Jerauld	9	6	5	0	0	0	Fall River	107	74	14	1	0	3
Lake	62	49	10	1	1	1	Pennington	133	90	19	1	6	6
McCook	28	16	7	0	0	3	Rapid City	1246	778	360	2	8	93
Miner	17	16	3	0	0	0	TOTAL	1586	995	438	4	14	110
Moody	115	90	10	0	2	0	8th Circuit						
Sanborn	4	3	2	0	0	1	Butte	68	51	19	0	1	8
TOTAL	456	360	79	3	5	7	Corson	12	9	1	0	0	2
							Dewey	15	10	1	0	1	3
							Harding	3	1	1	0	0	1
							Lawrence	343	233	54	1	3	84
							Meade	357	259	82	1	0	26
							Perkins	26	20	3	0	0	5
							Ziebach	1	0	1	0	0	1
State Totals	8291	6033	2017	28	82	350	TOTAL	825	583	162	2	5	130

* Suspended Impositions of Sentence

Table 19. DUI Filings and Dispositions By County

Suspended Impositions

After a defendant's first conviction, either by guilty plea or at trial, the judge may decide to suspend the imposition of sentence according to SDCL 23A-27-13 and -14. These laws permit the judge, if he decides that it is in the interest of justice and the good of the community, to require the defendant to fulfill certain conditions, including the possibility of both a fine and jailtime, after which the defendant is discharged and the court orders that his record be sealed.

According to SDCL 23A-27-17, "the effect of such order is to restore such person, in the contemplation of the law, to the status he occupied before his arrest. . . ." For general legal purposes, the sealing of the record means it is as though the defendant was never convicted, with the following exception.

According to SDCL 23A-27-16, a record is kept by the state's Division of Criminal Investigation "solely for use by law enforcement agencies, prosecuting attorneys, and courts in sentencing such person for subsequent offenses."

The suspended imposition of sentence is provided to help those citizens who have been convicted of their first crime, but are sufficiently law-abiding and responsible, in the judgment of the court, that they should be reinstated fully after a reasonable punishment.

But, according to SDCL 23A-27-14, the procedure involved in the suspended imposition of sentence "may occur only once with respect to any person."

The indicators on Chart 21 show that for FY 1991 there has been a slight decrease in the number of suspended impositions of sentence granted for felony cases, after three years of increase. For the other two types of offense, class-one and class-two misdemeanors, the data for the year show a significant increase over FY 1989. The data for FY 1990 are not available.

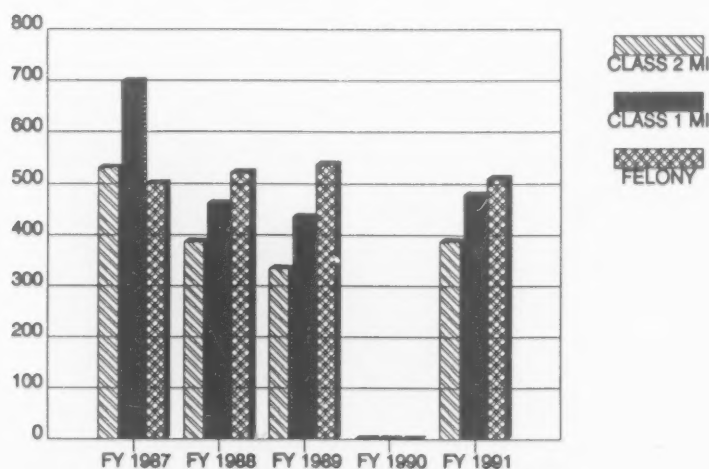


Chart 21. Suspended Imposition of Sentence

Class-Two Misdemeanors

Chart 22 shows that the number of class-two misdemeanor filings decreased for the second consecutive year in FY 1991, while the number of guilty pleas has increased after two years of decline. Chart 23 shows that class-two misdemeanor dismissals are up slightly this year and that trials have reached a five-year high, having risen about 25% since 1987.

Many of the dismissals shown in the chart reflect the high number of "financial responsibility" arrests (see Table 20) that are dismissed each year. Of the 16,627 dismissals reported for FY1991, 9,687 (58%) are dismissals of these offenses.

In these cases, the defendant who is stopped by a law-enforcement officer for a traffic violation must produce proof of financial responsibility (usually an auto insurance card). If the driver has no such proof in the vehicle, he is given a citation for failure to show proof of financial responsibility. Later, if the defendant can

produce such proof for the clerk-magistrate, the charge is dismissed. Of these violations, 67% were dismissed in FY 1991.

Some other class-two misdemeanor dismissals are the result of the removal from active records of those traffic cases in which the defendant failed to appear or pay the fine after a period of six months.

In those cases, the defendant's driver's license is suspended by the Department of Driver Improvement and the case is removed from active court files. In order to have his license reinstated, the defendant must first have the court issue an order to reinstate the license. Then, he must pay a substantial cash penalty to the Department of Commerce of Regulation. The defendant also faces the possibility of an additional criminal charge for his failure to appear in court on the original violation.

Table 20 lists class-two misdemeanor traffic violations for the fiscal year. The offenses shown in the detailed list include those with fifty arrests or more. Those showing an SDCL prefix of 99 are municipal violations.

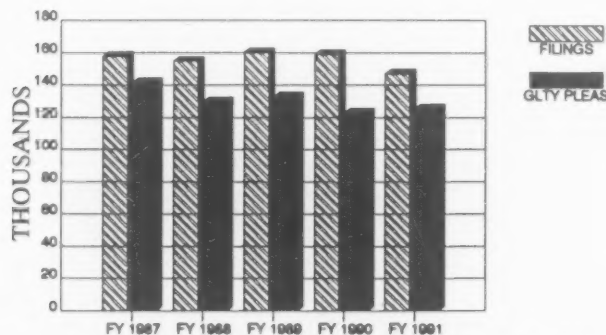


Chart 22. Class-Two Misdemeanor Caseload Filings and Guilty Pleas

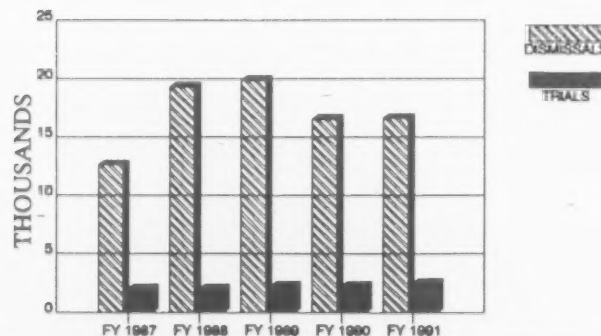


Chart 23. Class-Two Misdemeanor Caseload Dismissals and Trials

**CLASS-TWO MISDEMEANOR AND PETTY OFFENSE
TRAFFIC VIOLATION SUMMARY FY 1991**

Offense	SDCL Code	Arrests	Fine	Offense	SDCL	Arrests	Fine
Speeding	32-25-11.2	65,487	\$3,510,683	Promise to Appear	32-33-2	255	\$5,147
Financial Respon- sibility	32-35-11.3	14,556	\$203,961	Unsafe Backing	32-30-20	243	\$10,818
No Driver's License	32-12-22	5,392	\$180,707	Munic. Accident Report	99-1-17	238	\$11,100
Parking, Standing	99-1-4	4,282	\$47,322	Wrong-Way One-Way	99-1-40	237	\$9,132
Open Container	32-1-9.1	3,834	\$135,978	Illegal Passing	32-26-35	236	\$13,128
Suspended License	32-12-65	3,635	\$167,679	Fail to Yield	99-1-60	226	\$10,662
Overweight on Axle	32-22-16	3,311	\$831,831	Substitute Plates	32-5-103	223	\$11,829
No License Plates	32-5-98	3,288	\$137,761	Stop at Accident	32-34-4	209	\$11,317
Failure to Stop	32-29-2.1	2,987	\$180,742	No Commercial License	32-9-7	205	\$19,294
Log Book / Other	49-28A-3	2,289	\$133,143	Illegal Passing	32-26-37	197	\$12,011
Log Book Violations	49-28-63	1,745	\$103,047	Stop at Driveway	99-1-45	193	\$8,585
Flashing Red Light	32-28-6	1261	\$50,819	No Yield - Left Turn	32-26-19	183	\$6,430
Disobey Traffic Sign	99-1-11	1,204	\$56,041	No valid driver's license	99-1-67	180	\$7,716
Warning Ticket	99-1-2	1,041	\$26,618	Reckless Driving	99-1-41	179	\$9,555
Careless Driving	32-24-8	1,035	\$53,958	Comply with Officer	32-21-30	176	\$4,768
Exhibition Driving	99-1-52	971	\$37,486	Minor without Helmet	32-20-4	170	\$5,318
Careless Driving	99-1-53	940	\$46,999	Illegal Median Crossing	32-26-9	167	\$7,915
Child Seat Restraint*	32-37-1	918	\$17,012	Suspended License	32-35-11	163	\$10,950
Follow too Closely	32-26-40	818	\$34,837	Turn on Red, No Stop	99-1-51	157	\$6,260
Illegal Turn	32-26-18.1	726	\$29,440	Deviating	99-1-39	151	\$6,735
Exhibition Driving	32-24-9	672	\$22,519	No Valid Plates	99-1-9	149	\$6,015
Accident Reporting	32-34-7	536	\$32,793	Weigh Station	32-33-17	145	\$13,405
Fail to Stop	99-1-57	515	\$32,237	Illegal U-Turn	99-1-54	141	\$4,722
Overdriving Road Conditions	32-25-3	492	\$19,040	Failure to Yield	32-29-3	141	\$7,543
Unauth. use of Vehicle	32-12-74	454	\$15,419	Illegal Lane Change	32-26-6	134	\$5,138
Fail to Stop-Accident	32-34-6	446	\$18,216	Unauthorized Driver	32-12-72	129	\$4,865
No Motorcycle Driver's License	32-20-2	424	\$15,894	Registration Required	32-10-34	129	\$4,962
License Possession*	32-12-39	417	\$2,253	Stop at Check Point	49-28-66	122	\$9,598
Yield Right of Way	32-26-13	368	\$16,855	Trailer Chains	32-19-9	114	\$4,915
Open Container	99-2-138	350	\$9,762	Traffic Control Device	99-2-177	113	\$7,608
Oversize/Overweight	32-22-52	343	\$34,070	Frost Law Speeding	32-25-7	110	\$5,813
Overweight Truck	32-9-14	306	\$29,509	Motorcycle Muffler*	32-20-5	106	\$2,000
Moving without Permit	32-9-23.3	304	\$29,027	Littering	34A-7-7	105	\$4,585
Eye Protection*	32-20-4.1	299	\$5,133	Registration in Vehicle*	32-5-91	94	\$1,107
Stop for School Bus	32-32-6	288	\$18,123	Overwidth Vehicle	32-22-3	92	\$8,885
Flashing Stop Light	99-1-50	282	\$11,398	Rear Lamps Required*	32-17-8	86	\$1,600
Wrong Side of Road	32-26-1	262	\$7,290	Handlebar Height*	32-20-3	82	\$1,595
Unsafe driving	99-1-16	261	\$11,900	Disobey Emergency Order	99-2-23	82	\$1,180
Illegal U-Turn	32-26-25	257	\$8,191	Muffler Cut-out	32-15-17	77	\$2,583
				Racing on Highway	32-25-23	75	\$5,137
				Exhibition Driving	99-1-52	73	\$2,615
				Lamps not Properly Lit	32-17-4	72	\$1,562
				Drive Improper Vehicle	32-21-27	71	\$2,981
Total of All Items on This Page		133,746	\$6,640,904	Follow too Closely	99-1-79	58	\$2,300
Other Class-Two and Petty Offense Traffic Violations		1,931	\$194,959	Improper Highway Entry	32-26-14	54	\$2,525
State Total		135,677	\$6,835,863	No Comp. Certificate	32-9-14	53	\$5,097
				Speeding, School Zone	32-25-14	53	\$2,002
				Avoiding Traffic Signal	99-1-15	52	\$2,085
				Improper Passing	32-26-26	50	\$2,118

* Petty Offenses

Table 20. Traffic Violation Summary

**INSUFFICIENT FUNDS CHECK VIOLATIONS:
FILINGS AND DISPOSITIONS COMPARED: FY 1990 AND FY 1991**

Insufficient Funds Check Violations:
Filings and Dispositions Compared: FY 1990 and FY 1991

Year	Filings	Guilty Pleas	<u>Trials</u>		Dis- mis- sals	Sus- pended Impos.
			Conv.	Acquit		
FY 1990	4676	2242	12	2	1455	65
FY 1991	5728	2941	20	9	1885	80
% Change	22%	31%	67%	350%	30%	23%

Table 21. Insufficient Funds Check Violations